

MT LEGISLATIVE HISTORY

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Chapter 495 1987

Bill H 302 S _____

Original bill & hist. ☒ C

H. Committee on Business & Labor

S. Committee on Labor & Empl. Rela.

Hearing Date(s) _____ C

Hearing Date(s) _____ C

1/30 ☒ C

3/24 ☒ C

_____ C

3/26 ☒ C

_____ C

_____ C

Date Out

2/2 ☒ C

3/26 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 302

INTRODUCED BY BRADLEY, THAYER, MANUEL, SPAETH,
BRANDEWIE, HARP, HALLIGAN, BOYLAN, DONALDSON, NEUMAN

IN THE HOUSE

JANUARY 20, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

FEBRUARY 2, 1987 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 3, 1987 PRINTING REPORT.

FEBRUARY 4, 1987 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 5, 1987 ENGROSSING REPORT.

FEBRUARY 6, 1987 THIRD READING, PASSED.
AYES, 55; NOES, 45.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

MARCH 26, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 28, 1987 SECOND READING, CONCURRED IN.

MARCH 30, 1987 THIRD READING, CONCURRED IN.
AYES, 37; NOES, 13.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 302
2 INTRODUCED BY Bradley H. Brown, Member
3 Democratic Party HARP Walter M. Newman
4 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING AUTHORITY TO
5 THE PUBLIC SERVICE COMMISSION TO ALLOW CLOSURE OF CERTAIN
6 RAILROAD FACILITIES NOT REQUIRED BY PUBLIC CONVENIENCE AND
7 NECESSITY; AND AMENDING SECTION 69-14-202, MCA."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 69-14-202, MCA, is amended to read:

11 "69-14-202. Duty to furnish shipping and passenger
12 facilities. (1) Every person, corporation, or association
13 operating a railroad in the state shall maintain and staff
14 facilities for shipment and delivery of freight and shall
15 ship and deliver freight and accommodate passengers in-at
16 least-one-location, preferably--the--county--seat,--in--each
17 county--through--which--the--line--of--the--railway--passes--and--at
18 any--point--upon--the--line--of--such--railway--where--there--is--a
19 city--or--town--having--a--population, according-to-the-last
20 federal-census, of-not-less-than-17,000;--provided,--however,
21 that--this--section--shall--not--require-the-maintenance-and
22 staffing-of-such-facilities-in-any-county-or-at-any-city--or
23 town--in--which--such--facilities--were--not--maintained-and
24 staffed--on--July--17--1969 in such facilities as were
25 maintained and staffed on January 1, 1987.

1 (2) However, if a person, corporation, or association
2 operating a railroad demonstrates to the public service
3 commission, following an opportunity for a public hearing,
4 that a facility is not required for public convenience and
5 necessity, the commission shall authorize the closure,
6 consolidation, or centralization of the facility.

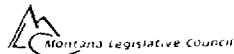
7 {2}--Nothing--in--this--section---authorizes---the
8 discontinuance--of-any-facility-presently-established-in-any
9 city, town, or other location having a population--of--less
10 than--1,000--without--a--hearing--before--the-public-service
11 commission, as provided by law."

12 NEW SECTION. Section 2. Extension of authority. Any
13 existing authority of the public service commission to make
14 rules on the subject of the provisions of this act is
15 extended to the provisions of this act.

-End-

-2-

INTRODUCED BILL
HB-302



HOUSE BILL NO. 302

INTRODUCED BY BRADLEY, THAYER, MANUEL, SPAETH,
BRANDEWIE, HARP, HALLIGAN, BOYLAN, DONALDSON, NEUMAN

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING AUTHORITY TO
THE PUBLIC SERVICE COMMISSION TO ALLOW CLOSURE OF CERTAIN
RAILROAD FACILITIES NOT REQUIRED BY PUBLIC CONVENIENCE AND
NECESSITY; AND AMENDING SECTION 69-14-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-14-202, MCA, is amended to read:

"69-14-202. Duty to furnish shipping and passenger
facilities. (1) Every person, corporation, or association
operating a railroad in the state ON JANUARY 1, 1987, OR A
SUCCESSOR THERETO, shall maintain and staff facilities for
shipment and delivery of freight and shall ship and deliver
freight and accommodate passengers ~~in-at-least-one-location;~~
~~preferably-the-county-seat,-in-each-county-through-which-the~~
~~line-of-the-railway-passes-and-at-any-point-upon-the-line-of~~
~~such-railway--where--there--is--a--city--or--town--having--a~~
~~population--according--to--the--last-federal-census--of-not~~
~~less-than-1,000;-provided,-however,-that-this-section--shall~~
~~not--require-the-maintenance-and-staffing-of-such-facilities~~
~~in-any--county--or--at--any-city--or--town--in--which--such~~
~~facilities--were--not-maintained-and-staffed-on-July-1,-1969~~

in such facilities as were maintained and staffed on January
1, 1987.

(2) However, if a person, corporation, or association
operating a railroad demonstrates to the public service
commission, following an opportunity for a public hearing IN
THE COMMUNITY WHERE THE FACILITY IS SITUATED, that a
facility is not required for public convenience and
necessity, the commission shall authorize the closure,
consolidation, or centralization of the facility.

~~{2}--Nothing---in---this---section---authorizes---the~~
~~discontinuance-of-any-facility-presently-established-in--any~~
~~city,--town,--or--other-location-having-a-population-of-less~~
~~than-1,000-without--a--hearing--before--the--public--service~~
~~commission,--as-provided-by-law."~~

NEW SECTION. Section 2. Extension of authority. Any
existing authority of the public service commission to make
rules on the subject of the provisions of this act is
extended to the provisions of this act.

-End-

STANDING COMMITTEE REPORT

SENATE

March 26, 1987

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 302

third reading copy (blue color)

GRANTING PSC AUTHORITY TO ALLOW CLOSURE OF CERTAIN RAILROAD FACILITIES

BRADLEY (THAYER)

Respectfully report as follows: That HOUSE BILL No. 302 be amended as follows:

1. Page 1, line 14.

Following: "state"

Insert: "on January 1, 1987, or a successor there to,"

AND AS AMENDED,
BE CONCURRED IN
XXXXX

XXXXXXXXXX

Sen. John "J.D." Lynch

Chairman.

3-21
5

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR

COMMITTEE

HOUSE NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
7	1/19/87	1/28/87	1/28/87	1/28/87							
4	1/19/87	1/28/87	tabled 1/28/87								
8	1/19/87	1/28/87	1/28/87	1/28/87							
2	1/20/87	1/30/87	2/2/87	2/2/87							
0	1/20/87	1/29/87	1/29/87			1/29/87					
3	1/20/87	2/6/87	2/12/87			2/12/87					
2	1/20/87	1/29/87	1/29/87	1/29/87							
1	1/20/87	1/29/87	2/3/87	2/3/87							
1	1/24/87	2/2/87	2/2/87			2/2/87					
1	1/24/87	1/29/87	1/29/87			1/29/87					
1	1/24/87	2/2/87	2/2/87								
2	1/24/87	2/2/87	2/6/87			2/6/87					
3	1/24/87	2/2/87	2/11/87			2/11/87					
1	1/24/87	1/27/87	1/27/87			1/27/87					

a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 30, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 30, 1987 at 8:00 a.m. in Room 325 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Driscoll who had been excused.

HOUSE BILL NO. 302 - Granting PSC Authority to Allow Closure of Certain Railroad Facilities, sponsored by Rep. Dorothy Bradley, House District No. 79, Bozeman. Rep. Bradley stated that she is introducing this bill to correct an outdated law because it requires jobs and facilities to be established by a railroad corporation based on population which she felt was an arbitrary standard. She is proposing to change that standard and not eliminate it, she said, and the new language on in the bill replaces the standard with such decision to be made by the Public Service Commission as to necessity and public convenience and only after a public hearing. She emphasized that this is not an immediate phase out of agency positions in the state of Montana; it would only take place on a case by case basis after careful consideration of each of those agencies and then the Burlington Northern would install a regionalized telecommunications type of system which every transportation system in this country has today.

Rep. Bradley said she had three concerns with this, whether the service to the shippers would be high quality; if a move like this would be a back door approach towards railroad abandonment, and what would happen to the agents. She referred to a letter from a Commissioner with the Public Service Commission in the state of North Dakota that had gone to a centralized system ten years ago, and which had answered her concerns. Exhibit No. 1.

On the second page of the material she had compiled, she showed the work performed by the 62 agencies in the state, which consisted of the bills of lading, the car orders, the demurrages and the match and tracing. She felt in her best estimation that most of the tasks they did could be accomplished by a central agency or the personnel from the train crews. Exhibit No. 2.

She stated that since Montana is the only state with this kind of requirement it is unique in that respect. She

showed the comparison of Montana to surrounding states. Exhibit No. 3.

On the fourth page she showed that there is no relationship between agency closures that have been approved since 1982 and railroad abandonment. Exhibit No. 4.

She stated that as far as her third concern which deals with the agents themselves; she has taken some time to go over the agreements which cover every one of the current employees, and the conclusion she arrived at is that they are protected. She said they are protected in the sense that if they did lose a job if the agency was terminated through a Public Service convenience and necessity standard they could seek another job or continue to be compensated until retirement.

PROPONENTS

Bill Francis, Regional Vice President, Burlington Northern Railroad, headquartered in Seattle. Mr. Francis stated that the proposed change in the law is something that would be good for the state of Montana because this change would allow the customer to be the driving force behind whether an agency should be opened or closed which will be done through the Public Service Commission. He said the proposal does not allow for wholesale closure of the agencies; it would be an evolutionary process that would be relatively slow and occur only in the best interest of the customers as dictated by the Public Service Commission. He said the needs have changed and it is hard to equate the population of a location with the need for an agent at that place; the implementation would be slow, the employees affected, if the PSC agrees with it, are protected and are guaranteed job protection by the labor agreements that have occurred since the 1970 merger. He commented, because of the competitive nature of the business they are in, whether or not a location has an agency that is opened should be determined by the customer there, not by the population of the city in question.

John Green, President of the Montana Western Railway. Mr. Green stated that he believes that technology has reached the point now when the need for agencies in small towns is no longer required. He said if the customer does not need the services of an agency, then that is an added expense to the carrier that will be passed on to the customer, and if they are to keep the customers competitive in Montana, costs will have to be lowered.

Russ Ritter, Chairman of the Board of Directors of the Montana Chamber of Commerce. Mr. Ritter stated that his

support for this measure is philosophical and would apply to any business or industry in Montana. He said industries are constantly undergoing modernization and must keep pace, because if they fall behind their competitors, the effort and expense to catch up becomes staggering. For a state government to forbid modernization of any industry is poor economics, and he stated, that the roadblocks to economic development for Montana are the disincentives that have been enrolled into our laws. Exhibit No. 7.

John Palmer, Manager of the Fairview Montana Edible Bean Plant, Fairview. Mr. Palmer stated he was concerned about the billing and ordering of cars, and about the service he would get from Burlington Northern when they were informed that the agency in Glendive would be implementing the centralized system, but they have not had any major problems. He said they do not use the depot in Fairview any longer; it was essential at one time, but it is not fair to force business to maintain a facility where it is not profitable and could end up costing the customer.

Bill Marquart, field representative for Fisher Sand and Gravel, Glendive. Mr. Marquart stated that he deals with Burlington with track crossings, property leases, and shipping, and has been dealing with the Glendive agent, which is the newly centralized agency, and he can see that the system is working. He said the deregulation regarding freight rates on the federal level has been very advantageous to them; and he can say that deregulation is passed on to industry and to consumers as well.

Bill Olson, representing the Montana Concrete and Aggregate Producers Association of Montana. Mr. Olson stated they are in support of this bill because the checks and balances with the Public Service Commission involvement would be there, and it might possibly discourage the Burlington Northern from the proposed sale of the lines from Laurel to Sandpoint, Idaho. He said that anytime there is a transfer on a line that increases the costs it would increase the cost of the cement and aggregate that his members produce.

Mike Strawbridge, Vice President and General Manager, Ideal Cement, Trident. Mr. Strawbridge stated that with the law that is currently on the books they are at a disadvantage with any other state and Canada that they ship to. He said it is time for the government in this state to work with business so that people can stay employed in Montana, and cannot afford laws that protect unproductive work.

Doug Crandell, Manager of Brand S Lumber, Livingston. Mr. Crandell stated he was testifying as a customer of the Burlington Northern. He said since deregulation they have

found that shipping has become more complex and competitive and because of this tightening of competition among shippers and among producers, they find that even small changes in rates, efficiency, service or timing have a dramatic impact on their sales. He said that it isn't fair to expect a company of any size to perform an unneeded and expensive service, and in this deregulated and super competitive world of transportation, it isn't just the BN that loses, but their customers as well.

Michael Evans, Traffic Coordinator, Columbia Falls Aluminum Company. Mr. Evans stated that they consider the Burlington Northern to be an integral part of the Columbia Falls Aluminum Company. He said they believe that it would be mutually beneficial if the BN were able to control the placement and allow flexibility to utilize the workforce to the best of their ability. If the BN is to remain an asset to the existing shipping public in Montana, he commented, restrictions such as this would help the BN control cost and improve service and be an attraction to potential business in Montana. CFAC supports this bill because they are confident that when the realistic need exists, BN will, regardless of the population, provide service necessary to retain business at that compensatory level by establishing communications, and if required, reposition personnel to maintain service at a level that will enable Montana business to grow.

Lorna Frank, representing the Montana Farm Bureau. Ms. Frank stated that the Farm Bureau believes that greater efficiency is the answer to the railroads financial burden rather than increased freight rates. She said that by changing this outdated law, BN would be able to save about \$2.5 million a year and could conceivably reduce freight rates on agricultural products which would help Montana farmers. Exhibit No. 8.

Mark Oberle, Transportation Manager, PB Grain, Bozeman. Mr. Oberle stated he is involved with the preliminary logistics of rail cars and placement of the cars and coordinating the efforts between their elevators and the Burlington Northern. He said they operate out of five primary facilities in the state of Montana and they do not see a need to be working with local agents as they work primarily with the elevators placing cars and working through the central regions. He said they feel that working with these outside agencies and not working with the local agencies, they are getting freight rate savings.

Bob Nelson, Chief Counsel, Public Service Commission. Mr. Nelson stated that the Commission neither supports or

opposes HB 302. He stated he was available to answer any questions.

Mark Dippold, Manager of the Caminco American Phosphate Mine, Garrison. Mr. Dippold stated that their operation has been shut down because of cost competition from Idaho, Wyoming, and Utah. He said this bill would improve efficiency and cost for the BN which will reflect in helping to save their business. Exhibit No. 9.

OPPONENTS

James Mular, Legislative Director, Brotherhood of Railway and Airline Clerks. Mr. Mular stated that he believes that a station is what it means, it is a stop; a place to get a service for the public. He said the sponsors of this legislation state that by eliminating the population criterion of an outdated law which is the purpose of this legislation and the amendments, but, the public convenience and necessity is nothing more than the common law doctrine of 300 years.

Mr. Mular referred to the first exhibit he had distributed which showed the population factor of communities over 1,000. Exhibit No. 10.

The historical background of this statute is very clean, he said, and was first recodified in 1969. The transcripts and the record of the Public Service Commission hearings showed when Burlington Northern was directly asked if the cost savings that they allege in their exhibits would be passed on to the customer, the answer was no.

Mr. Mular referred to his second exhibit that showed the applications made for agency removal from 1979 to the present time. Exhibit No. 11.

He stated the third exhibit showed the most recent challenge made by Burlington Northern to close stations in Montana, and was an opinion of the Ninth Circuit Court of Appeals regarding the Montana station law. He referred to page five of the exhibit in which he had highlighted the findings of that court. He said that it should be noted that they admitted that the public convenience and necessity was specifically defined by the population criteria. Exhibit Nos. 12 and 13.

Mr. Mular stated if this legislation passes based on ancient common law doctrine the state will be pushed back 300 years because it is a flexible statute, and would work only for Burlington Northern. He asked where is the cost savings; Burlington Northern sells service, and if one arm of that

service is removed, consideration of the customers would be removed. He said the bill does not provide whether the hearings will be heard in the communities and it says nothing about when a line segment of railroad is sold where that short line operator will have to work the stations, and there is nothing mentioned regarding public convenience and necessity involving profitability.

Joe Brand, Montana State Director, United Transportation Union, Helena. Mr. Brand stated that they oppose the bill because it is a drastic change from the present law. Exhibit No. 14.

Jim Murry, Executive Director, Montana State AFL-CIO. Mr. Murry stated that this bill would amend the present law by allowing the PSC to authorize closure of such facilities in the event that any person, corporation or association demonstrates that a facility is not required. He stated it is their contention that public convenience and necessity are being served through the current statute which insures that service to these communities will be maintained. He said that access to transportation is vital for the future economic growth of Montana's small cities and towns. Exhibit No. 15.

Terry Murphy, representing Montana Farmers Union. Mr. Murphy stated that he is tired of hearing Montana being continually criticized by officials of the railroad, that it is a bad place to do business and about the taxes. He said Montana has negotiated reductions of multiple millions of dollars in property taxes legitimately owed by that railroad; have provided them with a balloon with no interest to rehabilitate some rail line that they committed to as part of an agreement when the Milwaukee Railroad went out of business. He pointed out that the farm organizations have been conferring with the railroad for several years over why they haul unit trains of grain out of Nebraska to the west coast and bring them 600 miles before they enter into the state, then hauled on the same rails as our crops at lower freight rates to the producers for a 600 mile further haul. He said what does that say about freight rates to Montana shippers.

Mr. Murphy said the railroad could do some things to make Montana a better place to do business, and until we see some progress in giving some competitive freight rates with those other shippers from farther away that the railroad serves, why should we give up the last vestige of any control that we have over this railroad.

Cindy Foresman, representing Local 402, Brotherhood of Railway Airline Clerks, Livingston. Ms. Foresman stated she

is a "rubber room" clerk; she is not given any work to do. She is qualified to do the work in the yard office in Livingston, but she has seen BN pay overtime to another clerk, and pay her daily to just sit there with no work.

Dale Van Dale, agent at Columbia Falls. Mr. Van Dale stated he was testifying that they do have work, and explained what he did as an agent and the forms they needed to process.

Richard Van Aken, legislative representative from BRAC Lodge No. 403, and a railway clerk, Missoula. Mr. Van Aken stated that BRAC Lodge No. 43 opposes this bill for all the reasons mentioned and listed some other items. Exhibit No. 16.

Diane Powers, Bozeman. Ms. Powers stated she worked for the Burlington Northern in Livingston, and opposed the bill.

QUESTIONS

Rep. Swysgood stated that they have heard that with the elimination of some railway stations it would be a cost saving factor for the railroad and also the shippers and if these people are protected in their jobs as has been testified whether they remain in the area or go to some other part of the railroad, he asked Mr. Francis how this relates to a cost saving measure for the railroad, these people are still being paid and the cost is being disbursed somewhere along the line. Mr. Francis responded that it relates more to the evolutionary process of this coming into effect as opposed to all of a sudden. He said there is an attrition rate of 7 to 10% whereby people drop out of the work force, whether they retire, resign, or for whatever reason, but the present law requires that they fill the positions if the agency is open. He said as the efficiency rate works in, the protected people would drop out of the work force and the jobs would disappear and over a period of time the cost would be realized in savings to the customers in Montana.

Rep. Bachini stated that they have heard that closing the Richey-Lambert line would save the shippers money; this does not actually save the shippers any money because now they have to take their grain into the Richey elevators and it has to be trucked from that elevator to another elevator, which costs those farmers to have it trucked, so the closing of that line is not saving those people any money.

Rep. Pavlovich asked what would happen to the station when the agent is gone, would it be torn down or would they continue to pay taxes on it. Mr. Francis stated they have handled each on an individual basis in other areas; many go

into the community to become libraries, museums, or whatever.

Rep. Pavlovich asked when these agents are moved around, would a repercussion occur someplace down the line and eventually someone is going to lose a job. Mr. Francis stated the agreement that establishes job protection came from a 1970 and 1980 merger so the people who are working in these positions now have that protection; and the railroad is restricted from moving them to where they could be more productive. He said they deal with this on an individual basis, whether that individual wanted to continue to work in a different location or take an early retirement, but with the law the way it is now, the railroad does not have that freedom, and they would still be bound by that agreement.

Rep. Grinde asked Rep. Bradley when this bill would be implemented since there is no effective date in the bill. Rep. Bradley responded it would be October 1, 1987.

Rep. Grinde asked Mr. Francis if this did become law, what his criteria for abandonment of these facilities would be. Mr. Francis responded that they would look at those agencies that do not perform a service for their customers at the present time.

Rep. Grinde asked if there would be lower rates for the consumers of Montana. Mr. Francis stated that in the past when the company has been able to effect efficiencies, those cost savings have been passed on to their customers and have enabled them to keep some of the business; and in fact regroup some of the business that they have lost.

Rep. Brown asked Mr. Nelson about what type of process the Public Service Commission would have for the public hearings. Mr. Nelson responded that it would be the same process that they now use for agencies in areas that have less than 1,000 population. He said they would provide an opportunity for a hearing, a hearing examiner and one staff person would conduct the hearing, and they consider the application for centralization or abandonment based on public convenience or necessity.

Rep. Glaser asked Mr. Francis if it was true that there are two criteria for setting rates, one being what the traffic will bear, and the other, the competitive pressure, such as from truckers. Mr. Francis responded that both statements are true, that was how the business world is, the competition has to be met if the traffic is kept, and you have to make a profit.

Rep. Swysgood asked when Mr. Murphy had attested that grain from Nebraska going through to the west coast goes cheaper than grain from Montana to the west coast, did he know if there was competition with the Burlington Northern for that same grain at the originating point in Nebraska. Mr. Murphy responded that it was the competition with the Union Pacific that makes the difference.

Rep. Pavlovich asked Mr. Francis if Burlington Northern was in the process of either trying to liquidate or trying to sell the southern route. Mr. Francis responded that there are some individuals who have indicated an interest to buy the line from Sandpoint to Laurel and are in the process of making a decision to purchase that line.

Rep. Pavlovich asked if they were planning on terminating the agents on the other line, and if they plan to sell it, and liquidating the rest of the lines. Mr. Francis responded that Burlington Northern has a stated policy that if someone wants to buy their railroad and wanted to offer enough money, then it might be for sale, if they could provide the proper service to their customers.

Rep. Pavlovich asked if Burlington Northern would give back the land grant that is on those lines, or what will happen to it. Mr. Francis responded that Burlington Northern has no intention of giving it back.

Rep. Simon asked Mr. Francis when they sold the Butte to Garrison line to a short line operator, if the railroad was considering abandonment of that line. Mr. Francis responded that it would have been considered.

CLOSING

Rep. Bradley stated that she is submitting three other letters from organizations that wished to support this bill, Eissinger Equipment from Circle; Stone Container Corporation, Missoula; and Glendive Forward, Glendive. She said it is her knowledge that there is no other state that has a population requirement like this and when she discussed this matter directly with an agent and asked him if the centralized system would work, he told her it already is for many, and that people would get used to it. She commented that every sector is being forced to streamline and become efficient, it would be odd to maintain a statutory system that requires some jobs to exist even it has been proven in a public hearing that they are not necessary. The proposed standard in this legislation is public convenience and necessity, she stated, and it would go before the Public

Service Commission with a public hearing, and that standard is fair.

At the close of the hearing for House Bill No. 302, the Committee resumed their hearing in Room 312-F at 10:00 a.m.

HOUSE BILL NO. 471 - Providing For Licensing and Regulation of Dietitians and Nutritionists, sponsored by Rep. Paul Darko, House District No. 2, Libby. Rep. Darko stated there is a need for this bill with the increased awareness of health and nutrition in the United States, and because there is a potential for fraud. She said there is always a fear in licensing that a new board would be created, this bill does not provide for a new board but it does allow for the cost of an extra member to sit on the board of medical examiners. She commented that there is always a question of third party reimbursements when a profession is licensed; there is no guarantee for third party reimbursement in this bill, that is up to the insurance company and is not a back door approach to third party reimbursement; pharmacists and nurses are licensed in the state and they do not automatically receive third party reimbursements.

PROPONENTS

Cindy Brown, registered dietician, Helena. Ms. Brown stated that a registered dietician is a health care professional working in the area of food and nutrition. She said this bill provides that a person could be licensed as a dietician or nutritionist if that person is a registered dietician according to the laws of Montana, or has a baccalaureate from an accredited college or university.

Mickie Medora, registered dietician, Missoula. Ms. Medora stated nutrition is an integral part of self care and as a result of this there has been a great deal of consumer interest in nutrition and they strongly promote it. She stated the interest in nutrition has also created opportunities for a variety of people to use this interest and start providing it to the consumer whether they are appropriately qualified or not. Health fraud, she said, is a 12 billion dollar industry, nationally, and gave some examples of the types of harmful information that could be given to the consumer. Exhibit No. 1.

Dr. Kenneth Eden, physician practicing internal medicine, Helena. Dr. Eden stated that physicians have come to rely more on registered dietitians over the last several years. He said the advances in dietary counseling and in treatment for the prevention of dietary problems have been spearheaded by registered dietitians who are qualified to counsel patients in balanced diets. He commented the public has a

BUSINESS & LABOR

COMMITTEE

7th LEGISLATIVE SESSION -- 1987

Date January 30, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	—		
REP. FRED THOMAS, VICE-CHAIRMAN	—		
REP. BOB BACHINI	—		
REP. RAY BRANDEWIE	—		
REP. JAN BROWN	—		
REP. BEN COHEN	—		
REP. JERRY DRISCOLL			—
REP. WILLIAM GLASER	—		
REP. LARRY GRINDE			
REP. STELLA JEAN HANSEN	—		
REP. TOM JONES			
REP. LLOYD MCCORMICK	—		
REP. GERALD NISBET	—		
REP. BOB PAVLOVICH			
REP. BRUCE SIMON	—		
REP. CLYDE SMITH	—		
REP. CHARLES SWYSGOOD			
REP. NORM WALLIN	—		



Public Service Commission

State of North Dakota

HB 302

COMMISSIONERS

Leo M. Reinbold
President
Dale V. Sandstrom
Bruce Hagen

State Capitol
Bismarck, North Dakota 58102
701-224-2222
800-932-2222
Toll Free in North Dakota

January 14, 1987

Secretary, Janet A. E.

The Honorable Dorothy Bradley
Montana State House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Bradley:

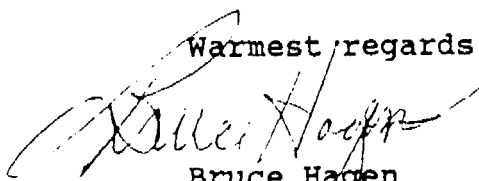
I understand that you have introduced a bill that proposes to modify railroad agency requirements in Montana. I have been a public service commissioner for over 25 years, and I thought you might appreciate my thoughts on the subject.

Both of North Dakota's major railroads now utilize centralized agency services. The initial railroad application to centralize agency services in North Dakota was filed over ten years ago. Our Commission held a hearing on the proposal and, perhaps somewhat reluctantly, granted the application. Since that time, we have considered many proposals and have approved them all, either in whole or in part. Virtually all of North Dakota's agencies have now been "centralized".

If "The proof is in the pudding," I must say that the railroads' approach to centralized agency services is well received. We have had virtually no complaints regarding services. Extended hours, toll-free numbers, etc., have resulted in excellent services to shippers.

Centralized agency service has helped lower our railroads' operating costs in North Dakota, have contributed to obtaining lower freight rates, and have helped retain branchline viability. Our Commission encourages carrier efficiencies if they can be accomplished without adversely affecting services. Centralized agency services have been a success story in this regard.

Warmest regards,


Bruce Hagen
Commissioner

BH/cg

AGENCY WORK PERFORMED

AGENCIES	None	Bills of Lading	Car Orders	Demurr.	Match/Tracing
62	36	12	20	8	15

The agents at the agencies sometimes perform other non-agency work. Non agency work includes: train orders, track lineup, completing RUIA claims, handling switching instructions, crew calling, compares reporting and paying utility bills. All this work except compass reporting and Amtrak work could be accomplished from a central agency or by personnel on the train crews.

Eight of the agents who perform no Agency work also have no non-agency work. Four approve their utility bills for payment by St. Paul as the only non-agency work.

Definitions

Bills of Lading: The agent receives the paperwork for the shipments that are outbound. The initial paperwork on the shipment is completed by the shipper.

Car Orders: The agent orders cars for delivery to shipper at a specific time and location.

Demurrage: The agent logs the cars are "spot time" or delivered time and then the "released time" to determine if a charge is owed for "car rent."

Matching and Tracing Inbound Revenue Waybills: The agent is responsible for identifying that an inbound shipment has the appropriate transportation charges -- matches the revenue waybill with car movement waybill.

Train Orders: Train orders are specific instruction for operation of the train and movement of the train.

OPEN STATIONS

	MONTANA	WASHINGTON	OREGON	WYOMING	NORTH DAKOTA
# OF AGENCIES	62	16	6	8	6
BN MILES OF TRACK	3,137	3,031	643	966	3,246
<u>9 MONTHS OF 1986</u>					
Carloads originated	257,851	249,041	56,215	658,284	115,673
Carloads terminated	<u>31,212</u>	<u>242,991</u>	<u>64,595</u>	<u>45,135</u>	<u>27,968</u>
TOTAL	289,063	492,032	120,810	703,419	143,641

AGENCY CLOSURES SINCE 1982

Closures Approved/Line Remains Open

Fallon	southern mainline
Lodge Grass	secondary line south from Billings
Belt	central secondary
Carter	branchline
St Regis	northern mainline
Poplar	northern mainline
Broadview	central secondary
Redstone/Flaxville	branchline
Manhattan	southern mainline
Twin Bridges	branchline
Sheridan	branchline
Kremlin/Gilford	northern mainline
Joplin/Inverness	northern mainline
Power/Brady	central secondary
Bonner	southern mainline
Ledger/Valier	branchline
Bainville	northern mainline

Agency Closure /Line Closed

Brockway	branchline (agency and line closed at the same time)
Richy/Lambert	branchline (agency and line closed at the same time)

Agency Closure Denied/Line Closed Later

Bridger	branchline
Chappell	branchline
Denton	branchline
Geraldine	branchline



ISSINGER EQUIPMENT, INC.
P.O. BOX A CIRCLE, MONTANA 59215
PHONE (406) 485-2751



EXHIBIT 5
DATE 1/30/8
HB 302

flexi-coil.  VERSATILE

January 27, 1987

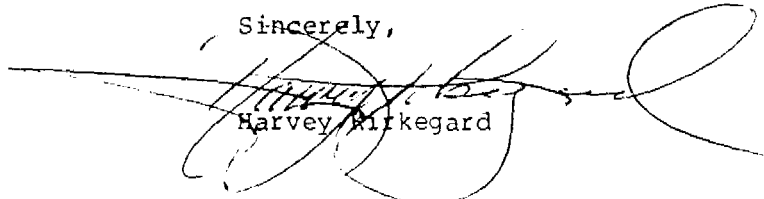
Montana House of Representatives
Capitol Station
Helena, Montana 59620

ATTN: Dorothy Bradley,

Please recieve this letter in favor of repealing the
Railroad Agency Requirement law.

We have found, up to this point in time, the service
administered by BN from the Glendive office adequate for
our business.

Sincerely,


Harvey Kirkegard



Stone Container Corporation

DATE 1/30/87
HB 302

January 27, 1987

Representative Dorothy Bradley
Capital Station
Helena, Montana 59620

Dear Representative Bradley:

Stone Container Corporation supports passage of House Bill 202 which would grant the Public Service Commission authority to allow closure of certain railroad facilities. As a major shipper of freight on the Burlington Northern we believe it appropriate to accomodate efficiency and cost reduction when possible without causing serious public inconvenience. Access to markets is important to Montana industry and reducing railroad operating costs will, in the long run, help reduce freight costs and help promote interest in serving Montana on the part of the railroads.

Thank you for your interest.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. T. Potts', written over a light blue horizontal line.

Daniel T. Potts
General Manager

DTP:plg

Glendive

Forward



200 N. Merrill Ave. • P.O. Box 930
Glendive, Montana 59330
(406) 365-8612

Of Montana

EXHIBIT 7
DATE 1/30/87
HB 302

January 27, 1987

Representative Dorothy Bradley
Montana House of Representatives
Capital Station
Helena, MT 59620

Dear Representative Bradley:

This letter is written in support of HB-302. Glendive Forward is an Economic Development Corporation and as such we are interested in enhancing not only the economic stability and development of Glendive, but the State of Montana as well. We feel HB-302 will, to some degree, be a move toward improving economic conditions in Montana.

Although we all may not always welcome the advent of computerization of businesses, it is here. It is an efficient manner of conducting business and that efficiency translates into reduced costs of operations. Maintaining higher costs of operations, as we all know, are cost burdens that are shouldered by the consumer in most instances, and in this instance, shippers. Should shippers and other users of railroad services be asked to shoulder the burden of additional expense for inefficient and unnecessary costs? Montana's distance from most national markets makes shipping costs an expensive portion of total costs of production for Montana businesses and unnecessary costs should not add further to our geographic handicap.

Many other businesses operating in Montana have consolidated operations for purposes of efficiency made available through telecommunications and computerization. Banking and utilities are but two of such businesses and the purpose and results of such consolidation of operations would, in most instances, be found to be lower costs, or convenience, or both, to consumers. We do not feel that the railroad should be precluded from operating efficiently, nor should they be restricted by a law, written long before these technological advances were available, from utilizing such equipment.

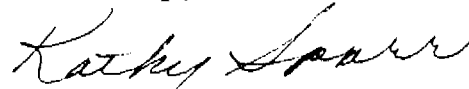
EXHIBIT _____
DATE 1/30/83
HB 302

Montana cannot continue to isolate itself and ignore modern methods of doing business to the detriment of our economy.

In this instance, as well as, many others, Montana business must have available and must utilize those modern tools that permit competition in the state, as well as, national level.

We urge you to consider favorably HB-302.

Sincerely,



Kathy Sparr
Executive Director

cc-John Etchart
John Delano
Dorothy Bradley
House Business and Labor Committee Members

KS/dlh

MONTANA'S OUTDATED RAILROAD AGENCY LAW

Montana is the only state which mandates that railroads maintain agencies on the basis of location and population. This law is a wasteful expense for Montana's shippers, consumers and railroads because the need for service is unrelated to location or population. In all other states, agency functions have been streamlined and consolidated at centralized locations and decisions to do so have been based on service and demand rather than population. For instance, under this law, Burlington Northern has in excess of sixty agents in Montana and fewer than seven in both North Dakota and Nebraska.

When this law is discussed, those who advocate its continuation usually do so on the following beliefs: that when an agency is closed, line abandonment will follow, service will suffer, or the agent will be unemployed.

In each instance, the belief is incorrect.

Agency closures will not cost agents their jobs, railroad service will not suffer and the action is not a prelude to abandonment.

If the Montana statute mandating local agencies is changed, the decision on whether or not an agency remains open will be made based on the service that a community needs, not on an artificial population or location standard required by law.

QUESTIONS AND ANSWERS ABOUT RAILROAD AGENCIES IN MONTANA

1. WHAT WILL HAPPEN TO LOCAL AGENCIES IF THE PROPOSED LEGISLATION PASSES?

Under the proposed legislation the Public Service Commission will determine if an agency is required based upon the demands of public convenience and necessity. Business levels at the local agency will determine whether it remains open.

2. WHAT IS A LOCAL AGENCY?

An agency is a local railroad office staffed by an agent responsible for receiving car orders and billing instructions from customers. The agent acts as a middleman in relaying requests for service to a regional customer service center.

3. WHAT FUNCTIONS DID THE LOCAL AGENCY HISTORICALLY PERFORM?

Agencies date back to the era when railroads ran passenger trains and before computers had been invented. Local agents had a multitude of assignments including selling passenger tickets, loading milk cans and baggage and handling U.S. Mail. They were also responsible for loading and unloading merchandise which was shipped in less than full carloads, handling livestock, collecting charges, salvaging and selling damaged freight, and physically checking on all cars. They handled a variety of paper work and delivered and billed Western Union telegrams.

4. WHAT EFFECT HAS MODERN TECHNOLOGY HAD ON THE DUTIES OF LOCAL AGENTS?

Because of changes in society and advances in business technology, the local agent no longer handles Western Union telegraphs and seldom serves passengers or performs most of the functions once necessary. Car orders, record keeping, freight billing and yard handling are, for the most part, computerized and handled through a customer service center.

5. ARE LOCAL AGENCIES STILL NEEDED TO SERVE LOCAL CUSTOMERS?

No. Modern business practices have changed the way railroads operate and the way customers can best be served. Historically, agents ordered cars and provided customers with information about their shipments. Today that information is handled by a customer service center. The customer service center, via computer, can instantly determine the location, content, destination and shipper and receiver on virtually any car on the U.S. rail system. The local agent does not order cars, instead the order is relayed to a regional service center where the order is made.

Now, railroad customers can gain immediate access to the information and service needed by directly phoning regional customer service centers. This is no different than the way people routinely contact the reservation centers of airlines, car rental agencies, hotels or the regional service offices of trucking companies.

6. WITHOUT A LOCAL AGENCY, HOW DOES A CUSTOMER GET SERVICE OR ASSISTANCE?

Customers simply call the customer service center using toll-free lines. These centers are on call 24 hours a day to handle requests for service, and inquiries about shipments. If personal contact with a railroad representative is required, staff members at the customer service centers can arrange it.

7. HOW IS THE CLOSING OF A LOCAL AGENCY RELATED TO TRACK ABANDONMENT?

The presence of an agency does not assure continued rail service nor does removal of an agency lead to abandonment -- traffic volume and operating costs are the determining factors. Some branch lines are in question because of low traffic volume and high costs. Eliminating local agencies is one way railroads can reduce costs, making the continuation of service feasible. Railroads have closed many agencies in important main and branch line communities and the customers are often better served by customer service centers. Agency closings have NO effect on train schedules or service.

8. WHEN A LOCAL AGENCY IS CLOSED, WHAT HAPPENS TO THE AGENT?

There are currently more than 60 agents in Montana. They all have seniority as union members and are guaranteed employment. They might move to other locations with the railroad where jobs are available. Or they might remain in their present location and receive compensation until retirement.

At some agency locations there are also other railroad employees. These employees would remain at those locations and continue the work they now do.

9. ARE OTHER RAILROADS DOING THE SAME THING?

Agency consolidations are an industry trend. All major railroads face the same pressure to become more efficient and to better serve their customers. As a result, all railroads are instituting consolidated customer service centers.

10. DO ANY OTHER STATES MANDATE AGENCY RETENTION BASED ON POPULATION OR LOCATION?

No, Montana's law is unique. No other state requires that agencies be maintained on the basis of population or location. The cost of maintaining unnecessary agencies imposed by this eighty-year-old law is estimated at more than \$2 million per year -- a cost ultimately borne in part by Montana shippers and consumers. By way of comparison, Burlington Northern maintains six agencies in North Dakota, eight in Wyoming and more than 60 in Montana.

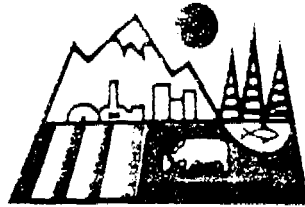


EXHIBIT _____
DATE 1/30/87
HB 302

MONTANA CHAMBER OF COMMERCE

101 E. 4TH ST. • HELENA, MONTANA 59624 • PHONE 443-1111

Testimony
of the
Montana Chamber of Commerce
by
Russ Ritter, Chairman of the Board
to the
House Labor & Industry Committee
in support of HB 302
January 30, 1987

Mr. Chairman, and members of the Committee, my name is Russ Ritter and I am here today to speak in favor of House Bill 302 from personal perspective and in my position as Chairman of the Board of Directors of the Montana Chamber of Commerce.

You have heard data and statistics from proponents, and I'm reasonably certain you'll hear more from opponents. But my support for this measure is philosophical and would apply if we were talking about any business or industry in Montana during these days of economic struggle and collapse.

We do not mine gold as we did earlier this century. In 1987, the mining of gold in Montana requires consultants, computers and engineers -- professions and technologies un-needed or unknown when Helena consisted of Last Chance Gulch.

Industries are constantly undergoing modernization. They must keep pace, for if they once fall behind their competitors the effort and expense to catch up becomes staggering, and often futile.

For a state government to forbid modernization of any

Testimony
by Russ Ritter
HB 302
January 30, 1987
Page 2

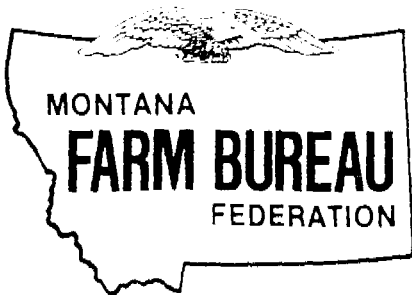
EXHIBIT _____
DATE 1/30/87
HB 302

Crippling the transportation of our agricultural and natural resource production threatens today's employment in those industries and jobs for the future of our state.

We strongly believe that the roadblocks to economic development for Montana are the dis-incentives we have enrolled into our laws. Surely, laws that deny an industry the right to keep up with modern technology and change must stand as a prime example of dis-incentive.

I urge your favorable consideration of House Bill 302.

Thank you.



P.O. Box 6400
602-000000

Bozeman, Montana 59715
Phone (406) 587-3153

EXHIBIT 8
DATE 1/30/87
HB 302

TESTIMONY BY: Lorna Frank
BILL # HB-302 DATE 1/30/87
SUPPORT XXX OPPOSE

Mr. Chairman, Members of the committee, for the record my name is Lorna Frank, representing Montana Farm Bureau.

Farm Bureau believes that greater efficiency is the answer to the railroads financial burden rather than increased freight rates. We support closures of stations that do not contribute to the efficient movement of agricultural commodities or related equipment.

By changing this out dated law, Burlington Northern would be able to save about \$2.5 million a year and could conceivably reduce freight rates on agriculture products. This would certainly help Montana farmers and ranchers at a time when they can use all the help they can get.

By passing this bill that does not mean that a station will be closed, there is an opportunity for a public hearing before the Public Service Commission.

Farm Bureau members hope that you will give HB-302 a do pass recommendation. Thank you.

SIGNED: Lorna Frank

MTRASTAL :

50th LEGISLATIVE ASSEMBLY 1987

Montana Communities with 1,000 or more inhabitants having over Railroad Station Facilities pursuant to Section 42-14-022 MCA. (Source: 1980 Federal Decennial Census Tables B-4 and 5)

Station	Pop.	RR	Station	Pop.	RR
1. Anaconda	12,518	Barus	28. Harlem	1,625	BN
2. Belgrade	2,336	BN	29. Havre	10,521	BN
3. Big Timber	1,620	BN	30. Helena	25,838	BN
4. Billings	66,798	BN	31. Kalispell	10,648	BN
5. Bonner	1,742	BN	32. Laurel	3,481	BN
6. Bozeman	21,645	BN	33. Lewistown	7,104	BN
7. Browning	1,266	BN	34. Libby	2,748	BN
8. Butte/		Barus	35. Livingston	6,994	BN
Silver Bow	37,208	MWRy.	36. Malta	2,367	BN
9. Chinook	1,660	BN	37. Miles City	9,602	BN
10. Choteau	1,798	BN	38. Missoula	33,388	BN
11. Columbia Falls	3,112	BN	39. Phillipsburg	1,138	BN
12. Columbus	1,439	BN	40. Paradise/ unicorp		BN
13. Conrad	3,074	BN	41. Plains	1,116	BN
14. Deer Lodge	4,023	MWRy.	42. Poison	2,798	BN
15. Dillon	3,976	U.P.	43. Ronan	1,530	BN
16. E. Helena	1,647	BN	44. Scobey	1,382	BN
17. Eureka	1,119	BN	45. Shelby	3,142	BN
18. Fairview	1,366	BN	46. Sidney	5,726	BN
19. Forsyth	2,553	BN	47. St. Regis unincop		BN
20. Ft. Benton	1,693	BN	48. Superior	1,054	BN
21. Glasgow	4,455	BN	49. Thompson Falls	1,147	BN
22. Glendive	5,978	BN	50. Three Forks	1,247	BN
23. Great Falls	56,725	BN	51. Townsend	1,587	BN
24. Hamilton	2,661	BN	52. Whitefish	3,703	BN
25. Hardin	3,300	BN	53. Whitehall	1,030	BN
			54. Wolf Point	3,074	BN

Note: BN sold to Montana Western Railway Co. 52 miles of track from Butte to Garrison. MWRy. maintains and staffs a station facility at Butte, but has ignored to maintain and staff station facilities in Deer Lodge, County Seat Powell County, Montana-Population 4,023 inhabitants.

APPENDIX 4-1 CONTINUED:

Montana Communities with less than 1,000 inhabitants having been railroad stations facilities pursuant to Section 69-14-202 MCA.
(Source: 1980 Federal Decennial Census Table 5)

Station	Pop.	RR	Station	Pop.	RR
1. Big Sandy	875	BN	9. Ringham	198	BN
2. Chester	963	BN	10. Hyndman	129	BN
3. Circle	993	BN	11. Medicine Lake	402	BN
4. Culbertson	887	BN	12. Opheim	210	BN
5. Darby	581	BN	13. Alder	N/A	BN
6. Drummond	414	BN	14. Stanford(1)	595	BN
7. Dutton	359	BN	15. Terry	929	BN
8. Froid	323	BN	16. Wibaux	640	BN
			17. Silver Bow (unincorp)		Barus
			" " "	"	MWRy.
			" " "	"	Un. Pac
			18. Garrison	"	MWRy
			" " "	"	BN

Note(1): BN maintains a mobile agency know as Direct Service Agency (DSA) Stanford, Montana is the Base Station: One agent drives to Moccasin an unincorporated community thence to Hobson, pop. 261, thence Judith Gap, pop. 213, onto Kolin, unincorporated, and Moore, pop. 229. This service was directed by the Montana Pub.Svc. Commission in 1973, and each station listed gets service according to the PSC order.

Note(2) Stations listed above are either the County Seat or the last remaining station in the county pursuant to Section 69-14-202 MCA

B.N. APPLICATIONS FOR AGENCY REMOVAL
January 1, 1979 to January 20, 1987

3/6/79	T-4331	Glacier Park Agency	Granted	3/3/80	#5856a
4/23/79	T-4411	Dualize Polson/Ronan	Denied	11/26/79	#2816a
1/18/80	T-4901	Close Fairview agency & use DSA from Watford, North Dakota at Sidney	Denied	4/16/80	#2951a
1/18/80	T-4902	Discontinue Caretaker Service and Remove Depot at Stevensville	Granted	8/12/80	#2933
5/18/81	T-5695	Dualize Eureka/Fortine	Granted	4/26/82	#4247
5/18/81	T-5696	Discontinue Troy Agency	Denied	4/26/82	#4245
11/6/81	T-6081	Lodge Grass Agency Consolidation (Jurisdiction)	Dismissed	3/26/84	#4674
1/8/82	T-6191	Centralize Customer Service Center in Glendive (Circle, Wibaux, & Terry)	Granted in part	10/25/82	#4425
3/17/82	T-6329	Browning consolidation	Dismissed	8/23/82	#4364
3/17/82	T-6330	Poplar consolidation	Granted	2/7/83	#4826
4/9/82	T-6375	Consolidate Belt, Carter, Choteau	Belt/Carter Granted Choteau Denied		#4529
4/9/82	T-6376	Centralized Customer Center Sidney for Richey, Lambert & Fairview	Granted in Part	11/13/82	#4456
5/11/82	T-6452	Whitehall/Three Forks Consolidation	Denied	8/16/82	#4403
5/11/82	T-6453	St. Regis/ <u>Superior</u> Consolidation	Granted	11/29/82	#4457
5/11/82	T-6454	Hamilton/ <u>Darby</u> Consolidation	Withdrawn ---- by Applicant		----
5/13/82	T-6455	Columbus & Rapalje Consolidation with <u>Laurel</u> Agency	Dismissed	11/15/82	#4429
5/18/82	T-6457	Big Timber consol. with Livingston	Denied	8/16/82	#4428

8/2/82	T-6603	Shelby Centralized Service Center	Granted	3/23/83	#4461
8/2/82	T-6604	Glasgow Centralized Service Center	Granted	11/10/82	#4447
8/2/82	T-6605	Laurel Centralized Service Center	Granted in Part	11/15/82	#4429
12/27/82	T-6952	Consolidate Opheim & Glentana, DSA, Richland & Peerless DSA & Four Buttes with Scobey Agency	Denied	4/6/84	#4854a
12/27/82	T-6953	Consolidate Bainville agency with Williston, ND	Withdrawn ----	----	
12/27/82	T-6954	Consolidate Froid & Homestead DSA, Medicine Lake, Reserve & Agency TSA, Redstone & Flaxville DSA into Plentywood agency	Grant in part/denied in part	1/4/84	----
4/13/83	T-7203	Dualize Avon/Elliston	Granted	4/10/83	#4088
5/5/83	T-7249	Bainville/ <u>Culbertson</u> Consolidation	Granted	7/30/84	#5025a
5/5/83	T-7251	Turner/Hogeland depot facilitiesn Line Abandonment)	Withdrawn (ICC approved		
5/24/83	T-7284	Manhattan/ <u>Three Forks</u> Consolidation	Granted	3/29/84	#4891
6/8/83	T-7323	Garrison/Deer Lodge Consolidation	Denied	3/21/85	#5285
6/21/83	T-7343	Consolidate Sheridan & Twin Bridges with Alder & Dualize/Alder & <u>Whitehall</u>	Granted	----	#4901
6/21/83	T-7344	Bonner/Missoula Consolidation	Granted	3/5/85	#5268a
7/13/83	T-7377	Havre Centralized Customer Service Cen.	Granted in part/denied in part	4/30/84	#4839
7/26/83	T-7401	Triailize Conrad with Ledger & <u>Valier</u>	Granted	9/19/84	#5075a
7/26/83	T-7402	Consolidate Dutton, Brady & Power with Gt Falls (into Dutton)	Granted in part	2/4/85	#5284
7/26/83	T-7403	Dualize Harlem/Chinook	Denied	4/30/84	#4810

7/29/83	T-7406	Dualize Polson/Ronan	Granted	3/5/85	#5269a
7/29/83	T-7407	Dualize Belgrade/ Bozeman	Denied	3/26/84	#4871a
7/29/83	T-7408	Triallize Big Timber with Columbus & Rapalje	Granted	1/85	#5189a
9/9/83	T-7503	Consolidate Trident & Toston with Townsend	Withdrawn by Applicant	1/9/84	----
9/9/83	T-7504	Consolidate Silver Bow with Butte	Denied	7/16/84	#4892
5/8/84	T-8018	Triallize Hamilton/ Stevensville and Darby	Pending	----	----
8/5/84	T-8187	Consolidate Trident/ <u>Three Forks</u>	Granted	3/25/85	#5308
10/29/84	T-8400	Discontinue Stanford DSA	Denied	9/20/85	#5625a
12/18/84	T-8502	Dualize Bozeman/ Belgrade	Granted	6/10/85	#5339
3/4/85	T-8689	Dualize Harlem/ Chinook	Denied	10/28/85	#5632
5/7/85	T-8764	Dualize Troy/Libby	Granted	12/16/85	#5655
9/5/85	T-8808	Triallize Sidney, Fairview & Circle	Dismissed	6/6/86	#5705
11/19/85	T-8837	Dualize Silver Bow/ Butte	Denied	2/19/86	#5673
2/7/86	T-8878	Miles City/Terry Dualization	Denied	----	----
4/16/86	T-8908	Dualize Conrad/ Choteau/Close Dutton	Pending	-----	----
4/16/86	T-8909	Dualize Big Sandy/ Fort Benton	Pending	----	----
4/16/86	T-8910	Dualize Chester/ Rudyard	Pending	----	----
4/16/86	T-8911	Dualize Forsyth/Hysham	Pending	----	----
4/16/86	T-8912	Dualize Cut Bank/Brown- ing	Pending	----	----

RECEIVED

JUN 24 1985

For Publication

FILED

JUN 21 1985

MONT. P. S. COMMISSIONED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

BURLINGTON NORTHERN
RAILROAD COMPANY,

Plaintiff-Appellant,

v.

DEPARTMENT OF PUBLIC SERVICE
REGULATION; PUBLIC SERVICE
COMMISSION; GORDON E. BOLLINGER;
CLYDE E. JARVIS; THOMAS E.
SCHNEIDER; JOHN DRISCOLL; and
HOWARD ELLIS,

Defendants-Appellees.

No. 84-3941

DC No. CV 82-173-BLG

O P I N I O N

Appeal from the United States District Court
for the District of Montana

James F. Battin, Chief Judge, Presiding

Argued and submitted January 18, 1985

Before: GOODWIN and SKOPIL, Circuit Judges, and VUKASIN,*
District Judge

GOODWIN, Circuit Judge

Burlington Northern Railroad Company appeals from a judgment for the Department of Public Service Regulation, in which the district court, on cross motions for summary judgment, upheld as constitutional a Montana statute requiring the railroad to maintain and staff certain freight offices in the state of Montana. We affirm.

Burlington Northern operates in Montana a railroad which is

*The Honorable Robert P. Vukasin, Jr., United States District Judge for the Northern District of California, sitting by designation.

* Rest of opinion not copied *

B.N. APPLICATIONS FILED WITH THE PSC
January 1, 1979 to January 20, 1987

1/16/79	T-4260	Carter Track Removal	Granted	4/17/79	#2699
1/16/79	T-4261	Grantsdale Track Rem.	Withdrawn	4/23/79	
3/6/79	T-4331	Glacier Park Agency Service Discontinued	Granted	3/3/80	#5856a
3/6/79	T-4333	Glasgow Stockyard	Granted	4/17/79	#2697
3/28/79	T-4359	Billings Trackage	Granted	5-22-79	#2747
4/23/79	T-4411	Dualize Polson/Ronan	Denied	11/26/79	#2816a
4/3/79	T-4412	Harrison Depot Bldg	Granted	7/2/79	#2758
5/10/79	T-4437	Gt. Falls Track Rem.	Granted	6/18/79	#2752
5/16/79	T-4442	Blackfoot Track Rem.	Granted	7/23/79	#2767
5/16/79	T-4443	Gunsight Track Rem.	Granted	7/23/79	
5/16/79	T-4444	Cascade Stockyard	Granted	11/26/79	#2822a
7/13/79	T-4540	Belton Track Removal	Granted	2/19/80	#2893
7/25/79	T-4547	Sheridan Stockyards	Granted	9/10/79	#2797
7/25/79	T-4548	Twin Bridges Stockyard	Granted	10/29/79	#2825
7/25/79	T-4733	Great Falls Trackage	Granted	11/5/79	#2830
9/19/79	T-4734	Dixon Stockyards	Granted	12/10/79	#2831
10/9/79	T-4761	Helena Stockyard	Granted	11/26/79	#2849
11/16/79	T-4824	Hesper Trackage	Granted	1/21/80	#2878
12/5/79	T-4852	Billings Trackage Rem.	Granted	1/21/80	#2879
1/11/80	T-4897	Great Falls Trkg. Rem.	Granted		
1/18/80	T-4901	Close Fairview agency & use DSA from Watford, North Dakota at Sidney	Denied	4/16/80	#2951a
1/18/80	T-4902	Discontinue Caretaker Service and Remove Depot at Stevensville	Granted	8/12/80	#2933

2/13/80	T-4933	Remove Rapelje Depot Building	Granted	5/6/80	#2924
7/8/80	T-5109	Havre Trackage Rem.	Withdrawn	7/23/80	
7/14/80	T-5167	Murne Trackage Rem.	Granted	9/19/80	#2757
7/18/80	T-5171	Grantsdale Trkg. Rem.	Granted	9/30/80	#3006
8/22/80	T-5253	Removal of timber platform at Antelope	Granted	10/20/80	#3016
10/2/80	T-5321	Blossburg Trk. Rem.	Granted	12/8/80	#3050
2/20/81	T-5520	Great Falls Trkg. Rem.	Granted	4/20/81	#4006
3/4/81	T-5536	Sprole Trackage Rem.	Granted	11/23/81	#4158
5/18/81	T-5693	Removal of Twin Bridges Depot Bldg.	Granted	2/8/82	#4198
5/18/81	T-5694	Removal of Station Facilities in Sheridan	Granted	2/8/82	#4197
5/18/81	T-5695	Dualize Eureka/Fortine	Granted	4/26/82	#4247
5/18/81	T-5696	Discontinue Troy Agency	Denied	4/26/82	#4245
5/20/81	T-5797	Philipsburg Depot	Dismissed	9/7/82	#4364
6/3/81	T-5822	Great Falls Trkg. Rem.	Granted	7/20/81	#4086
6/22/81	T-5855	Cow Creek Siding Rem.	Granted	10/19/81	#4132
7/23/81	T-5884	Niler Spur Trk. Rem.	Granted	10/5/81	#4122
8/14/81	T-5925	Terry Stkyd. Trk. Rem.	Granted	10/19/81	#4134
8/14/81	T-5926	Fee Spur Track Rem.	Granted	10/19/81	#4133
10/2/81	T-6019	Bozeman/Exxon Spur Track Removal	Granted	11/23/81	#4157
11/6/81	T-6081	Lodge Grass Agency Consolidation	Dismissed (Jurisdiction)	3/26/84	#4674
11/18/81	T-6098	Lewistown Depot Building Removal	Granted	1/4/82	#4181
12/10/81	T-6136	Disposal of Depot Building in Billings	Granted	2/1/82	#4196

1/8/82	T-6191	Centralize Customer Service Center in Glendive (Circle, Wibaux, & Terry)	Granted in part	10/25/82	#4425
3/8/82	T-6308	Ballentine Trkg. Rem.	Granted	5/10/82	#4278
3/8/82	T-6309	Forsyth Trkg. Rem.	Granted	5/10/82	#4279
3/17/82	T-6329	Browning consolidation	Dismissed	8/23/82	#4364
3/17/82	T-6330	Poplar consolidation	Granted	2/7/83	#4826
3/22/82	T-6335	Joppa Trkg. Rem.	Granted	5/10/82	#4280
4/9/82	T-6375	Consolidate Belt, Carter, Choteau	Belt/Carter Granted, Deny Choteau		#4529
4/9/82	T-6376	Centralized Customer Center Sidney for Richey, Lambert & Fairview	Granted in Part	11/13/82	#4456
5/11/82	T-6452	Whitehall/Three Forks Consolidation	Denied	8/16/82	#4403
5/11/82	T-6453	St. Regis/ <u>Superior</u> Consolidation	Granted	11/29/82	#4457
5/11/82	T-6454	Hamilton/ <u>Darby</u> Consolidation	Withdrawn by Applicant	-----	-----
5/13/82	T-6455	Columbus & Rapalje Consolidation with <u>Laurel Agency</u>	Dismissed	11/15/82	#4429
5/18/82	T-6457	Big Timber consol. with <u>Livingston</u>	Denied	8/16/82	#4428
5/20/82	T-6460	Billings/Exxon Spur Track Removal	Granted	7/19/82	#4352
6/22/82	T-6534	Hamilton Spur Track	Granted	8/30/82	#4361
8/2/82	T-6603	Shelby Centralized Service Center	Granted	3/23/83	#4461
8/2/82	T-6604	Glasgow Centralized Service Center	Granted	11/10/82	#4447
8/2/82	T-6605	Laurel Centralized Service Center	Granted in Part	11/15/82	#4429

8/11/82	T-6637	Billings Spur Track Freight House & Platform	Granted	10/4/82	#4392
8/11/82	T-6638	Glendive Spur Track	Granted	10/4/82	#4393
8/11/82	T-6639	Billings Spur Track	Granted	10/4/82	#4394
8/11/82	T-6640	Billings Spur Track	Granted	10/4/82	#4399
8/11/82	T-6641	Billins Spur Track	Granted	10/4/82	#4398
8/11/82	T-6642	Billings Spur Track	Granted	10/4/82	#4426
8/11/82	T-6643	Billings Spur Track	Withdrawn	12/27/82	----
8/11/82	T-6644	Billings Spur Track	Withdrawn	12/27/82	----
8/11/82	T-6645	Billings Spur & Pltfm.	Granted	10/4/82	#4396
8/11/82	T-6647	Glendive Spur Track	Granted	10/4/82	#4397
12/27/82	T-6952	Consolidate Opheim & Glentana, DSA, Richland & Peerless DSA & Four Buttes with Scobey Agency	Denied	4/6/84	#4854a
12/27/82	T-6953	Consolidate Bainville agency with Williston, ND	Withdrawn	----	----
12/27/82	T-6954	Consolidate Froid & Homestead DSA, Medicine Lake, Reserve & Agency TSA, Redstone & Flaxville DSA into Plentywood agency	Granted in 1/4/84 part/denied in part		----
1/19/83	T-7003	Whitefish Livestock Facility Removal	Granted	3/7/83	#4547
2/28/83	T-7091	Remov Hamilton Spr Trk.	Granted	5/9/83	#4597
4/13/83	T-7201	Glacier Park Caretaker	Granted	7/18/83	#4665
4/13/83	T-7202	Belton Caretaker rqmt.	Granted	7/18/83	#4664
4/13/83	T-7203	Dualize Avon/Elliston	Granted	4/10/83	#4088
5/5/83	T-7249	Bainville/ <u>Culbertson</u> Consolidation	Granted	7/30/84	#5025a
5/5/83	T-7251	Turner/Hogeland depot facilities	Withdrawn (ICC approved Line Abandonment)		

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5/24/83	T-7284	Manhattan/ <u>Three Forks</u> Consolidation	Granted	3/29/84	#4891
6/3/83	T-7317	Sieben Stkyd. Rem.	Granted	9/6/83	#4714
6/3/83	T-7318	Moore Stkyd. Rem.	Granted	6/11/84	#5024
6/8/83	T-7323	Garrison/Deer Lodge Consolidation	Denied	3/21/85	#5285
6/21/83	T-7343	Consolidate Sheridan & Twin Bridges with Alder & Dualize/Alder & <u>Whitehall</u>	Granted	----	#4901
6/21/83	T-7344	Bonner/Missoula Consolidation	Granted	3/5/85	#5268a
7/13/83	T-7377	Havre Centralized Customer Service Cen.	Granted in part/denied in part	4/30/84	#4839
7/19/83	T-7379	Piche Side Track Rem.	Granted	10/17/83	#4734
7/26/83	T-7401	Trialize Conrad with Ledger & <u>Valier</u>	Granted	9/19/84	#5075a
7/26/83	T-7402	Consolidate Dutton, Brady & Power with Gt Falls	Granted in part (into Dutton)	2/4/85	#5284
7/26/83	T-7403	Dualize Harlem/Chinook	Denied	4/30/84	#4810
7/26/83	T-7404	Wooley Beet Siding Rem.	Granted	10/17/83	#4733
7/29/83	T-7406	Dualize Polson/Ronan	Granted	3/5/85	#5269a
7/29/83	T-7407	Dualize Belgrade/ Bozeman	Denied	3/26/84	#4871a
7/29/83	T-7408	Trialize Big Timber with Columbus & Rapalje	Granted	1/85	#5189a
8/22/83	T-7450	Set Out Track at Ballentine	Granted	10/25/83	#4735
8/22/83	T-7451	Union Stock Track (Billings)	Granted	11/7/83	#4765
8/22/83	T-7452	Billings Freight House Track	Granted	10/17/83	#4736
8/22/83	T-7453	Billings Trackage	Granted	10/17/83	#4737

8/22/83	T-7454	Hardin Beet Spur Rem.	Granted	10/15/84	#5141
8/22/83	T-7455	Hardin Ramp & Trackage Removal	Granted	10/17/83	#4738
8/23/83	T-7458	Babcock/Colburn Siding Rem. (Blgs)	Granted	10/17/83	#4739
9/9/83	T-7503	Consolidate Trident & Toston with Townsend	Withdrawn by Applicant	1/9/84	----
9/9/83	T-7504	Consolidate Silver Bow with Butte	Denied	7/16/84	#4892
9/9/83	T-7505	Miles City Team Track Removal	Granted	1/3/84	#4814
9/9/83	T-7506	Baker Team Trk. Rem.	Granted	1/3/84	#4815
9/9/83	T-7507	Miles City House Trk. Removal	Granted	1/3/84	#4816
9/9/83	T-7508	Baker Stkyd. Track	Granted	1/3/84	#4817
9/16/83	T-7511	Richey Platform Rem.	Granted	1/3/84	#4823
9/16/83	T-7512	Lambert Platform Rem.	Granted	12/22/83	\$4824
9/16/83	T-7513	Fairview Platform Rem.	Granted	1/3/84	#4825
9/16/83	T-7514	Lindsey Platform Rem.	Granted	1/3/84	#4822
9/16/83	T-7515	California Spur Track (Miles City)	Granted	1/3/84	#4818
9/16/83	T-7516	Bluffport House Track Removal	Granted	1/3/84	#4821
10/27/83	T-7617	Ready Mix Spur Track Removal at Polson	Granted	2/14/84	#4881
10/27/83	T-7618	Forsyth Elevator Track	Granted	2/14/84	#4880
10/27/83	T-7619	Miles City Cement Spur Removal	Granted	1/3/84	#4819
10/27/83	T-7620	Missoula Self-Service Track Removal	Granted	2/14/84	#4882
10/27/83	T-7621	Whitehall Stock Track Removal	Granted	2/14/84	#4890
11/7/83	T-7624	Columbus House Track Removal	Granted	2/14/84	#4879

11/7/83	T-7625	Intake Elevator Track Removal	Granted	1/3/84	#4879
11/7/83	T-7626	Columbus Beet Spur Removal	Granted	2/14/84	#4878
11/14/83	T-7641	Butte House Track	Granted	2/21/84	#4889
12/13/83	T-7692	Kuchero Spur Removal at Billings	Granted	2/14/84	#4877
12/13/83	T-7693	Yellow Cab Spur Rem. at Billings	Withdrawn	8/6/84	----
12/13/83	T-7694	Billings Spur Rem.	Granted	2/14/84	#4876
12/19/83	T-7696	Chip Spur Switch Removal- Plains	Granted	2/14/84	#4883
12/19/83	T-7697	Mill Spur Switch Removal - Plains	Granted	2/14/84	#4884
12/19/83	T-7698	Noxon Log Trk. Rem.	Granted	2/21/84	#4885
12/19/83	T-7699	Butte TOFC Unloading Dock Removal	Granted	2/21/84	#4888
12/19/83	T-7700	Butte TOFC Spur Track Removal	Granted	2/21/84	#4887
12/19/83	T-7701	Park City Back Track Removal	Granted	2/14/84	#4875
12/19/83	T-7702	Paradise Log Trk. Rem.	Granted	2/14/84	#4886
12/19/83	T-7703	Whitehall House Trk. Removal	Granted	2/14/84	#4874
12/19/83	T-7704	Avon Stocktrack Rem.	Granted	2/14/84	#4873
12/19/83	T-7705	Moise Spur Trk. Rem.	Granted	2/14/84	#4972
1/11/84	T-7748	Acme Spur Trk. Rem.	Granted	4/30/84	#4979
1/11/84	T-7749	Miles City South Reserv. Trk. Rem.	Granted	4/30/84	----
1/11/84	T-7750	Chaffe Oil Spur Track Removal - Missoula	Granted	4/30/84	----
1/11/84	T-7751	Harlem Beet Spur Trk. Removal	Granted	4/30/84	#4980

1/11/84	T-7752	Butte Middle Yard Trk. Removal	Granted	4/30/84	----
1/17/84	T-7756	Stanford Ore Spur	Granted	4/30/84	----
1/17/84	T-7757	Collins Elev. Trk. Rem.	Granted	4/30/84	#4982
2/2/84	T-7791	Boys Club Spur Trk. Removal - Billings	Granted	4/30/84	#4981
2/2/84	T-7792	Insul. Fiber Track at Billings	Granted	5/14/84	#4983
3/15/84	T-7889	Lindsay Dock Track	Granted	6/4/84	----
3/15/84	T-7890	Oil Spur Track Rem. at Whitehall	Granted	6/4/84	----
4/4/84	T-7940	Butte Depot Bldg	Granted	6/18/84	#5036
5/8/84	T-8018	Trailize Hamilton/ Stevensville and Darby	Pending	----	----
5/15/84	T-8029	House Track Removal at Avon	Granted	7/30/84	----
5/15/84	T-8030	Stock Track Removal at Charlo	Granted	7/30/84	----
5/15/84	T-8031	House Track Removal at Livingston	Granted	7/30/84	----
5/15/84	T-8032	Stock Track Removal at Polson	Granted	7/30/84	----
5/15/84	T-8033	Old City Oil Spur Track Rem. - Polson	Granted	7/30/84	----
5/15/84	T-8034	JGL Spur Track Rem. at Missoula	Granted	8/6/84	#5087
5/15/84	T-8035	Oil Spur Trk. Rem. at Plains	Granted	9/10/84	----
5/15/84	T-8036	Spring Spur Trk. at Plains	Granted	9/10/84	----
5/15/84	T-8037	Back Track Rem. at Reed Point	Granted	7/30/84	----
5/21/84	T-8039	Missoula Depot	Granted	7/30/84	#5074
6/1/84	T-8055	Polson Spur Trk. Rem.	Granted	7/30/84	----

6/1/84	T-8056	Elliston Yard Spur Track Removal	Granted	7/30/84	----
6/19/84	T-8083	Back Track at Greycliff	Granted	7/30/84	-----
8/9/84	T-8185	Team Trk. Rem.-Bozeman	Granted	12/17/85	#5261
8/5/84	T-8187	Consolidate Trident/ <u>Three Forks</u>	Granted	3/25/85	#5308
9/13/84	T-8238	Miles City Depot	Granted	----	#5387
10/29/84	T-8400	Discontinue Stanford DSA	Denied	9/20/85	#5625a
12/11/84	T-8483	Lovell Clay Spur Trk. at Great Falls	Granted	2/25/85	----
12/12/84	T-8484	Car-Con Spur Removal - at Great Falls	Granted	2/25/85	----
12/14/84	T-8501	Miles City TOFC Track	Granted	2/25/85	----
12/18/84	T-8502	Dualize Bozeman/ Belgrade	Granted	6/10/85	5339
2/6/85	T-8647	Kalispell Depot	Granted	----	----
3/4/85	T-8689	Dualize Harlem/ Chinook	Denied	10/28/85	5632
3/11/85	T-8723	Taylor, McDonald Const. Co. Spur Track Rem. - Butte	Granted	6/21/85	----
3/11/85	T-8724	Remove railroad-owned portion of the Linde Air Spur Trk. - Butte	Granted	6/21/85	----
3/11/85	T-8725	Remove Standard Oil & Community Oil Spur Track - Butte	Granted	6/21/85	----
3/11/85	T-8726	Remove consolidated Petro Chem. Track - Butte	Granted	6/21/85	----
3/11/85	T-8727	Remove Butte Stkyd. Track	Granted	6/21/85	----
3/11/85	T-8728	Remove McCracken Metal Spur Track - Butte	Granted	6/21/85	----
3/11/85	T-8729	Remove upper yard Industry Track - Butte	Granted	6/21/85	----

3/11/85	T-8730	Remove Eddy's Bakery & Artcraft Prntg. Spur Track - Butte	Granted	6/21/85	----
4/29/85	T-8761	Hardy Spur Trk. Rem.	Granted	----	----
5/7/85	T-8764	Dualize Troy/Libby	Granted	12/16/85	#5655
8/13/85	T-8797	Pompey Pillar Spur	Granted	9/16/85	#5630
9/5/85	T-8808	Trialize Sidney, Fairview & Circle	Dismissed	6/6/86	#5705
10/11/85	T-8821	Helena House Trk. Rem.	Granted	12/30/85	----
10/11/85	T-8822	Fish Creek Siding near Rivulet Removal	Granted	12/30/85	----
10/11/85	T-8823	Kessler Spur Trk. Rem.	Granted	12/30/85	#5661
10/23/85	T-8825	Glendive House Track Removal	Granted	12/10/85	----
10/23/85	T-8826	Bailey Insulation Spur Track Removal	Granted	12/30/85	----
10/23/85	T-8827	Butte NP House Tr. Rem.	Granted	12/3/85	----
11/19/85	T-8837	Dualize Silver Bow/ Butte	Denied	2/19/86	5673
12/5/85	T-8845	Removal of Gravel Pit Spur - Chester	Granted	----	----
1/8/86	T-8857	Fairview Depot	Granted	5/6/86	5690
1/22/86	T-8860	Dispose of Lewistown Depot Building	Pending	-----	----
2/7/86	T-8878	Miles City/Terry Dualization	Denied	----	----
2/7/86	T-8884	Dispose of Depot in Hysham	Granted	5/8/86	5696
4/16/86	T-8908	Dualize Conrad/Choteau Close Dutton	Pending	-----	----
4/16/86	T-8909	Dualize Big Sandy/Fort Benton	Pending	----	----
4/16/86	T-8910	Dualize Chester/Rudyard	Pending	----	----

4/16/86	T-8911	Dualize Forsyth/Hysham	Pending	----	----
4/16/86	T-8912	Dualize Cut Bank/Brown-	Pending	----	----
		ing			
4/16/86	T-8913	Remove TOFC Dock at	Granted	7/1/86	----
		Livingston			
5/2/86	T-8923	Remove Industry Track	Granted	6/30/86	----
		on Park at Gt. Falls			
5/2/86	T-8924	Remove 2nd St. So.	Granted	6/30/86	----
		Industry Track at Gt. Falls			
5/2/86	T-8925	Remove Miles City	Granted	6/30/86	----
		Hospital Spur			
10/7/86	T-8995	Remove Beet Spur at	Granted	11/24/86	----
		Maudru			
10/7/86	T-8996	Remove Beet Spur at	Granted	11/24/86	----
		Big Horn, MT			
10/7/86	T-8997	Remove Beet Spur at	Granted	11/24/86	----
		Meyers, MT			
10/7/86	T-8998	Remove Elevator Track	Granted	11/24/86	----
		at Wyola, MT			
10/17/86	T-9002	Remove Home Oil Spur	Granted	12/8/86	----
		at Forsyth, MT			
10/17/86	T-9003	Remove Elk River	Granted	12/8/86	----
		Concrete Spur at Yeagen, MT			
10/17/86	T-9004	Remove Loading	Granted	12/8/86	----
		Platform at Wibaux, MT			
10/17/86	T-9005	Remove Mason Lumber	Granted	12/8/86	----
		Roscoe St. Spur at Billings, MT			
10/17/86	T-9006	Remove Pierce Packing	Pending	----	----
		Spur at Billings, MT			
11/5/86	T-9012	Remove Trio Fruit	Granted	1/12/87	----
		Spur at Missoula, MT			
11/5/86	T-9013	Remove Cannery Tracks	Granted	1/12/87	----
		2,3,4 at Bozeman, MT			
11/5/86	T-9014	Remove Tri-County Bldg	Granted	1/19/87	----
		Supply Co. Spur in Bozeman, MT			

11/5/86	T-9020	Remove Old Gt. Northern Granted House Tracks (Billings)	1/12/87	_____
1/18/87	T-9036	Remove Beet Spur at Custer, MT	Pending	----- _____
1/18/87	T-9037	Remove Western Hide & Wrecking Spur at Glendive, MT	Pending	----- _____
1/18/87	T-9038	Remove U.B.C. Spur at Billings, MT	Pending	----- _____

DATE 1/30/1
HB 302

MY NAME IS JOE BRAND, I AM THE MONTANA STATE DIRECTOR OF THE UNITED TRANSPORTATION UNION. I RESIDE IN HELENA, MONTANA. I AM ALSO SPEAKING IN BEHALF OF THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES AND THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

WE ARE OPPOSED TO H.B. 302 BECAUSE IT IS A DRASTIC CHANGE FROM THE PRESENT LAW. AS A MEMBER OF THE HOUSE IN 1969 SENATOR SHEEHY INTRODUCED LEGISLATION THAT WOULD ALLOW RAILROADS TO DISCONTINUE AGENCIES IN COMMUNITIES UNDER 1,000 POPULATION, AND AMENDED THE OLD LAW WHICH REQUIRED 300 POPULATION. IT WAS DONE TO HELP RELIEVE THE BURDEN ON THE RAILROADS DOING BUSINESS IN MONTANA.

PRESENTLY THE BURLINGTON NORTHERN HAS APPROXIMATELY 94 POSITIONS IN MONTANA AT A WAGE COST OF \$3,881,203, AND PROPERTY TAXES OF \$31,214.78, WHICH DOES NOT INCLUDE 21 STATIONS, BECAUSE NO FIGURES WERE GIVEN. OF THESE, 6 ARE THE ONLY AGENCIES IN A COUNTY WHERE THE RAILROAD TRAVERSES. THE NET SAVINGS TO THE BURLINGTON NORTHERN WOULD HAVE BEEN \$2,448,343, THESE FIGURES ARE TAKEN FROM TESTIMONY IN 1984 OF J. TIMOTHY BICKMORE, WHOSE POSITION AT THAT TIME WAS DIRECTOR OF OPERATIONS ANALYSIS BURLINGTON NORTHERN RAILROAD COMPANY, BEFORE THE UNITED STATES COURT OF APPEALS 9th CIRCUIT IN SAN FRANCISCO. HE SAID THE REASON THAT 60 OF THE STATION AGENCIES PRESENTLY OPERATED BY THE BURLINGTON NORTHERN ARE OPERATED ONLY TO COMPLY WITH MONTANA CODE ANN. S6914-202. IF OPERATION OF THESE DEPOTS WERE NOT REQUIRED BY THE STATUE, BURLINGTON NORTHERN WOULD CLOSE THEM SINCE THE OPERATION SERVES NO USEFUL FUNCTION.

IN MOST INSTANCES THIS CLOSURE WOULD BE ACHIEVED BY TRANSFERING THE STATION AGENT TO ANOTHER EMPLOYMENT LOCATION. WHAT HE IS REALLY SAYING, IN MY OPINION, IS THE JUNIOR EMPLOYEES IF NOT PROTECTED WILL BE UNEMPLOYED, AND ONLY 4 OR 6 SENIOR EMPLOYEES WILL HAVE EMPLOYMENT WITH THIS CORPORATION. WHEN THE AGENCIES ARE DISCONTINUED DEPOTS WILL BE DISTROYED AND YOU WILL HAVE THE EROSION OF THE TAX BASE.

DATE 11/30/11
HB 302

I AM VERY DISTURBED THAT BURLINGTON NORTHERN HAS SEEN FIT NOT TO SOLICIT BUSINESS IN THE COMMUNITIES IT SERVES AND TELLS THESE EMPLOYEES TO SIT IN THOSE AGENCIES WITH NOTHING TO DO. IF THE RAILROAD REALLY WANTED TO SERVE THE CUSTOMERS AND THE COMMUNITIES, THEY WOULD SEND THESE AGENTS OUT INTO THE COMMUNITIES TO GET BUSINESS, AND BE COMPETITIVE WITH OTHER TRANSPORTATION SYSTEMS, BECAUSE IT IS ONLY THROUGH THE CUSTOMER AND USER THAT THIS RAILROAD CAN EXIST.

WHEN THOSE EMPLOYEES ARE GONE THEIR HOMES AND FAMILIES WILL HAVE TO LEAVE MONTANA WHICH IS A FURTHER EROSION OF THE TAX BASE THAT MONTANA WILL LOOSE.

I WOULD SUGGEST THAT IF THIS RAILROAD CONTINUES ON THE COURSE THAT IT HAS TAKEN IN THE PAST 10 YEARS, IN THE NEXT 10 YEARS REGRETTABLY WE WILL HAVE NO RELIABLE RAILROAD TO SERVE THE CUSTOMERS WHICH MAKES FOR A VIBRANT BREATHING SYSTEM.

THE TIME IS NOW TO CONSIDER TURNING THIS DYING INDUSTRY AROUND SO THAT MOST COMMUNITIES ARE SERVED WITH A RAIL TRANSPORTATION NET WORK IN MONTANA THAT RUNS MORE TRAINS ON A REGULAR SCHEDULE AS WAS THE CASE 40 YEARS AGO. THIS LEGISLATION JUST DOES THE OPPOSIT.

THANK YOU. JOE BRAND



EXHIBIT 10
DATE 1/30/87
HB 302

JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406.442.1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 302 BEFORE THE HOUSE BUSINESS AND LABOR
COMMITTEE, JANUARY 30, 1987

Good morning. My name is Jim Murry and I am here today to testify before the House Business and Labor Committee on behalf of the Montana State AFL-CIO in opposition to House Bill 302.

The delegates to the 30th Annual Convention of the Montana State AFL-CIO adopted, through Resolution 26, a position that our labor federation oppose any attempts to amend or repeal Montana's so-called "freight agent" law. This statute requires railroads to maintain and staff at least one freight station facility in each county which the line passes through and any point on the line where there are at least 1,000 people.

House Bill 302 would amend this law by allowing the Public Service Commission to authorize closure of such facilities in the event any person, corporation or association demonstrates that a facility is not required for public convenience and necessity.

Mr. Chairman, it is our contention that public convenience and necessity are being served through our current statute which insures that service to these communities will be maintained. We believe that the existing law not only benefits the communities where these facilities are located but also helps generate more business and revenue for the railroad.

In our difficult economic times, many smaller cities and towns are fighting for their very survival. The presence of rail stations and branch lines may mean the difference between economic solvency or another boarded-up ghost town. Access to transportation is vital for the future economic growth of Montana's small cities and towns and therefore we oppose House Bill 302, which would further isolate rural communities.

ACTION ON HOUSE BILL NO. 302

Rep. Pavlovich moved that House Bill No. 302 be TABLED. The motion failed with 10 to 8 vote. Roll Call Vote No. 1.

Rep. Hanson moved that House Bill No. 302 DO NOT PASS.

Rep. Brandewie moved a substitute motion that House Bill No. 302 DO PASS.

DISCUSSION

Rep. Glaser commented: Not too long ago a couple of other companies had bad reputations, Anaconda and Montana Power; Anaconda is gone, and Montana Power is finally realizing that they need to be a good corporate citizen. Burlington Northern, is being a bad corporate citizen in the state of Montana, and, he said, it gets more and more difficult to do good things for them. In the end he is probably going to vote for the principle of House Bill No. 302, but it really upsets him that they are so uncooperative.

Rep. Driscoll commented: Years ago when Burlington Northern wanted everybody's cooperation and not fight the merger of the five railroads that became BN, they made a lot of promises to the citizens of this state and the workers that work for the railroad. Slowly they are breaking every promise. Some of the promises they made were put into laws because we didn't trust them, and now you can see why. In 1983 prior to the law being changed to add the words consolidation or centralization, Burlington Northern was laying off people and saying they were consolidating and centralizing. This was in violation of the intent of the law, so they added the two words, consolidation and centralization, and now they want to come in and repeal it; their word is not worth anything. The Burlington Northern Railroad wants to haul unit coal trains, unit grain trains, containerized freight, and truck trailers, and that's it. They made 97 million dollars in three months from railroad operations in 1984. They made more money in the state of Montana than any state in the nation, but they say Montana has such a "bad" business climate. He thinks that Montana is not picking on the railroad by asking them to live up to their word when they asked that we not fight their merger into the most monopolistic railroad in the nation. Now they want to keep repealing things, they go to Congress all the time, to get laws passed that will get rid of their workers, they are not hurting or broke, they are a very rich corporation.

Rep. Swysgood commented: He wanted to address this to the rule of impact. In his situation, his not being a part of

ROLL CALL VOTE

BUSINESS & LABOR

COMMITTEE

DATE Feb. 2, 1987

BILL NO. HB 302

NUMBER 3

NAME	AYE	NAY
REP. LES KITSELMAN, CHAIRMAN	☒	
REP. FRED THOMAS, VICE-CHAIRMAN	☒	
REP. BOB BACHINI		☒
REP. RAY BRANDEWIE	☒	
REP. JAN BROWN	☒	
REP. BEN COHEN		☒
REP. JERRY DRISCOLL		☒
REP. WILLIAM GLASER	☒	
REP. LARRY GRINDE	☒	
REP. STELLA JEAN HANSEN		☒
REP. TOM JONES	☒	
REP. LLOYD MCCORMICK		☒
REP. GERALD NISBET		☒
REP. BOB PAVLOVICH		☒
REP. BRUCE SIMON	☒	
REP. CLYDE SMITH	☒	
REP. CHARLES SWYSGOOD		☒
REP. NORM WALLIN	☒	

TALLY

10 8

Eric Armstrong
Secretary

Les Kitseleman
Chairman

MOTION: Rep. Brandewie moved that HB 302 DO PASS.

Motion carried - 10 to 8.

STANDING COMMITTEE REPORT

February 2

19 37

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE BILL NO. 302**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

FIRST

WHITE

reading copy ()
color

CHAIRMAN--SEN. JOHN "J.D." LYNCH
NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: T-T-S

TIME: 1:00 P.M.

SECRETARY--JULIE RADEMACHER

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0129	2/03	3/05	03/05/87	CONCUR	02/03/87	03/05/87
DRISCOLL, JERRY			CERTIFICATION FOR SUBSEQUENT INJURY FUND			
HB0130	2/03	3/05	03/05/87	CONCUR AS AMENDED	02/03/87	03/05/87
DRISCOLL, JERRY			CLARIFYING INSURERS' LIABILITY UNDER SUBSEQUENT INJURY FUND			
HB0142	2/02	3/05	03/05/87	CONCUR	02/02/87	03/05/87
HARPER, HAL			SIMPLIFYING UNEMPLOYMENT BENEFITS			
HB0143	2/10	3/05	03/05/87	CONCUR AS AMENDED	02/10/87	03/05/87
HARPER, HAL			GENERAL REVISION OF UNEMPLOYMENT INSURANCE LAW			
HB0166	1/26	2/05	02/05/87; 03/19/87	ADVERSE REPORT	01/26/87 02/11/87	03/19/87 02/05/87
JONES, TOM			JUDGMENT FOR UNPAID UNEMPLOYMENT INSURANCE NOT ARISE WHEN CONTRIBUTIONS DUE			
HB0166	2/11		03/19/87	CONCUR AS AMENDED	02/11/87	03/19/87
JONES, TOM			JUDGMENT FOR UNPAID UNEMPLOYMENT INSURANCE NOT ARISE WHEN CONTRIBUTIONS DUE			
HB0170	1/30	2/05	02/05/87	ADVERSE REPORT	02/03/87	02/05/87
JONES, TOM			DELETE PROVISION SETTING LIEN PRIORITY OF WITHHOLDING TAXES			
HB0170	2/11		03/19/87	CONCUR AS AMENDED	02/11/87	03/19/87
JONES, TOM			DELETE PROVISION SETTING LIEN PRIORITY OF WITHHOLDING TAXES			
HB0249	2/10	3/10	03/10/87	CONCUR	02/10/87	03/10/87
KITSELMAN, LES			WORKERS' COMP. DIV. CHARGE MINIMUM FEE ON PLAN 3 POLICY TO COVER ADMIN. COST			
HB0302	2/10	3/24	03/24/87	CONCUR AS AMENDED	02/10/87	03/24/87
BRADLEY, DOROTHY			GRANTING PSC AUTHORITY TO ALLOW CLOSURE OF CERTAIN RAILROAD FACILITIES			
HB0345	2/10	3/10	03/10/87	CONCUR	02/10/87	03/10/87
MCCORMICK, MAC			REVISE AMOUNT WORKERS' COMP. PLAN 2 INSURER MUST DEPOSIT TO ASSURE PAYMENT			

MONTANA STATE SENATE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATURE

COMMITTEE MEMBERS:

Senator John "J.D." Lynch, Chairman
Senator Gene Thayer, Vice Chairman
Senator Richard Manning
Senator Thomas Keating
Senator Chet Blaylock
Senator Delwyn Gage
Senator Jack Haffey
Senator Jack Galt

STAFF ATTORNEY:

Tom Gomez

COMMITTEE SECRETARY

Julie Rademacher

BOOK:

1 of 1

INCLUSIVE DATES:

January 4, 1987 - April 23, 1987

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/24/87

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X		
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X		
Jack Haffey	X		
Jack Galt	X		

Each day attach to minutes.

COMMITTEE ON

Labor

DATE March 24, 1987

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Betty J. Klingler	BRAC - HALFWAY Lodge #2	HB 302		X
WEST. MILLAR	STATE Legis DIR BRAC	HB 302		X
JOE BRAND	✓ ✓ ✓ UTL	HB 302		X
ED WHITE	BRAC - 428	HB 302		X
Joe Shannon	BRAC 528	HB 302		X
DAI BURR JR.	BLE.	HB 302		X
Maureen Stone	Doc	302		
W. J. Hotes	BRAC 402	HB 302		X
Larry Carmody	Mont Farmers Union	HB 302		X
Reggie Frank	St Bldg Trader	HB 772	X	
Cliff Wilk	CHCL #1334	HB 772	X	
Reggie McMurdo	MT. Council of Electrical ^{Workers}	HB 772		X
DAN JONES	MT. ST. Bldg Trades	HB 772	X	
PAULETTE GRONVOLD	MT ST Bldg Trades	HB 772	X	
John Farkas	ST. ASSN. OF PLUMBERS & FITTERS	772	X	
John A. Hays	Teamsters Joint Col. Fr	772	X	
Michael S. Higgins	St. Assn. of Plumbers & Fitters	772	X	
Jim Mathews	MT. St. Bldg Trader	772	X	
Lerna Frank	MT. Farm Bureau	302	X	772
Art Klein	B. N. Railroad	302	X	
John S. Palmer	Bx 485 Fairview, MT	302	X	
L. L. Brereton	BRAC	302		X
Bill Marguerit	Fisher Industries	302	X	
Kurtis Barr	Allegiance Forward	302	X	
John M. Shattuck	Hotel Union	302	X	
Joseph S. Harts	District Council of Laborers	HB 772	X	

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 24, 1987

The twenty-first meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on March 24, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 302: Rep. Dorothy Bradley, House District 79, sponsor of the bill, stated House Bill 302 is an Agency bill. (See Exhibit 1) Rep. Bradley feels this is an outdated law as the current law requires the establishing of jobs based on the size of the population base in a county seat. She stated this bill will change the standard from population to public convenience and necessity. She explained the current requirement is a population of 1,000 for maintaining an agency. She stated she is not proposing to eliminate those agencies, but to change the standard to public convenience and necessity and also to have a demonstration of public hearing. This would not start an immediate phase-out of Montana agencies. Rep. Bradley stated there was a time when a population base made sense, but times have changed. This bill would create a system that every transportation agency in the United States is currently using. It would be a centralized system which would use an 800 phone number to deal with the work. Rep. Bradley feels the only reason the outdated system is still being used is to maintain a handfull of jobs. The centralized system will be in 5 communities - Great Falls, Missoula, Whitefish, Laurel, and Glendive. Rep. Bradley stated she has received over a dozen letters of support from shippers. She said in other states where this system is in operation already, there seems to be a correlation of lower freight rates. Rep. Bradley stated she has statistics that prove there is no evidence of a correlation between the closure of agencies and the abandonment of branch lines. She stated the current employees are going to be taken care of, they will be offered positions in other areas. Rep. Bradley reserved the right to close.

PROPONENTS: Mr. Pat Keim, representing Burlington Railroad, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 2.

Mr. John Palmer, representing Harvest States Cooperative Bean Plant, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 3.

Mr. Russ Ritter, representing the Montana Chamber of Commerce, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 4.

Mr. Bill Marquart, representing Fisher Industries, stated House Bill 302 would give shippers in Montana a competitive edge. This bill would lead to a savings for freight rates.

Mr. John Fitzpatrick, representing Pegasus Gold Corporation, stated they are anticipating shipping their products from the mine to as yet unknown destinations, but most likely to Japan. With such distances they are concerned with freight rates.

Mr. Mike Strawbridge, representing the Montana Division of Ideal Basic Industries at Trident, Montana, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 5.

Ms. Lorna Frank, representing the Montana Farm Bureau, stated they believe the greater efficiency is the answer to the railroad financial burden rather than increase freight rates. Ms. Frank stated they support the closure of stations because it would contribute to greater efficiency of the company.

Ms. Kathy Sparr, representing Glendive Forward, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 6.

OPPONENTS: Mr. James T. Mular, representing the Brotherhood of Railway & Airline Clerks, gave testimony in opposition of this bill. A copy of his testimony is attached as Exhibit 7.

Mr. Ed White, representing Brotherhood of Railway & Airline Clerks, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 8.

Mr. Joe Shannon, representing the Brotherhood of Railway & Airline Clerks, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 9.

LABOR AND EMPLOYMENT

March 24, 1987

Page 3

Mr. Alex Hansen, representing Fort Benton, Conrad, Choteau and Denton, stated these small towns have concerns of the consequences of this bill on railroad service and employment in their area. He urged the committee to oppose the bill.

Mr. Don Bromley, representing the Brotherhood of Railway & Airline Clerks from Kalispell, stated all work was removed from the Kalispell office in 1985. In effect, that was a dry run of what this bill is proposing. The patrons of the Burlington Northern Railroad in Kalispell petitioned the Public Service Commission under the present law, and obtained a hearing. The result of the hearing was all work was returned to the station in Kalispell with the exception of centralized billing. House Bill 302 would not allow the patrons to have the privilege of petitioning the Public Service Commission under these circumstances.

Terry Carmody, representing the Montana Farmers Union of Today, stated they oppose this bill. They have supported tax breaks for the railroad, low interest loans for the railroad, and the railroad in return promised equity and competitive freight rates. However, the railroad has not kept their side of the bargain, so they are going to withhold giving anything else to the railroad until Montana sees some results in those areas.

Mr. Joe Brand, representing United Transportation Union, The Brotherhood of Maintenance of Way Employees, and the Brotherhood of Locomotive Engineers, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 10.

Mr. Rick VanAken, representing the Brotherhood of Railway & Airline Clerks, Lodge 43, gave testimony in opposition of this bill. A copy of his testimony is attached as Exhibit 11.

Mr. Jim Murry, representing the Montana AFL-CIO, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 12.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 302: Senator Keating asked Mr. Shannon if there are agencies in existence now in communities with a population of less than 1,000. Mr. Shannon replied yes, in Stanford, since it is the county seat.

Senator Keating asked Mr. White if in the past few years, have the Montana railroad rates decreased. Mr. White stated

he was unable to answer because as rate supervisor in his area, he does not deal with tariffs.

Senator Keating asked Mr. Mular if House Bill 302 passes, would any agencies automatically close. Mr. Mular replied no, the Public Service Commission has jurisdiction over the closing of any station. Senator Keating asked Mr. Mular why the Public Service Commission does not request for the closure of an agency in a town of more than 1,000 people. He asked if it is because the statute would preclude any jurisdiction action. Mr. Mular replied that is correct.

Senator Thayer asked Mr. Mular if he is aware there are two other railroads in Montana that are competing for freight. Mr. Mular replied yes, he is aware of the Sioux Railroad Line and the Union Pacific Railroad, but there is no competition from the Sioux Railroad Line.

Senator Thayer stated he owns a grain elevator in that area and he believes there is plenty of competition from the Sioux Railroad Line.

Senator Manning asked Mr. Ritter if with the passage of House Bill 302, would there be lower rates in Montana. Mr. Ritter stated he was not here to debate the numbers, he is concerned with a better way to do business in Montana, and if House Bill 302 will do that, the Montana Chamber of Commerce would support the bill.

Senator Manning asked Mr. Keim if this bill passed, would there be any loss of jobs. Mr. Keim replied no, not immediately, but over a course of a number of years, agencies could possibly be reduced.

Senator Lynch asked Rep. Bradley if the Burlington Northern Railroad is currently seeking relief with the U. S. District Court, and would this preclude that.

Mr. Leo Barry answered the question for Rep. Bradley and said there was a petition before the Public Service Commission to consolidate three agencies. The petition was denied on the grounds there was the 1,000 population standard, and therefore those agencies could not be consolidated. There was an action filed challenging that decision by the Public Service Commission.

Senator Lynch asked Mr. Barry if this bill passes, will it take away the court action. Mr. Barry replied it will move the court actions involving cities in which an agency has been retained due to the 1,000 population standard.

LABOR AND EMPLOYMENT

March 24, 1987

Page 5

Rep. Bradley closed by discussing the closure of agencies. (See attached Exhibit 13) Rep. Bradley believes this is a fair bill to everyone involved.

CONSIDERATION OF HOUSE BILL NO. 772: Rep. Raymond Brandewie, House District 49, sponsor of the bill, stated this bill requires there be at least 10 prevailing wage rate districts and at the present time there are 5 districts. Rep. Brandewie does not feel the Little Davis-Bacon Act serves the small communities of Montana. The wages placed upon small communities' construction projects are artificially high because of the involvement with unions. One step taken to try to address the problem is there be 10 prevailing wage rate districts, and also the presence of a collective bargaining agreement. A collective bargaining agreement is not the sole basis for the changing or creating of boundaries. There is also a provision included in the bill for \$25,000 work exemption. The basis for determining the prevailing wage will be from the basis of the weighted average. Rep. Brandewie stated there are some technical amendments that have to be fixed.

PROPOSERS: Mr. Gene Fenderson, representing the Montana State Building and Construction Trades Union, stated they support this bill, with some reluctance. Mr. Fenderson stated this is the fifth hearing he has attended concerning prevailing wage rates this 50th Legislative Session. He said there has been a clear message sent that the Davis-Bacon Act should be updated and reflect more of what is happening in the communities today. The Labor Commissioner set up an Advisory Council to update the Davis-Bacon Act, and Mr. Fenderson was on that council. He said the results of the meeting were that there needs to be a threshold to care for small every-day type jobs and there should be more wage rate districts. In the current law there is a \$7,500 threshold for every-day type repair jobs, and there are 5 wage rate districts. There was a feeling the Labor Commissioner should make some more changes. People involved with labor disagree, but they realize they have to give some to keep the Davis-Bacon law in the statutes. People representing labor worked with Rep. Brandewie and Rep. Driscoll, and the result was this bill. He stated the support given is tied to no amendments to vital issues of this bill.

Mr. Curt Wilson, representing Construction and General Laborers Local 1334, stated there has been much hard work and thought put into this compromise. They support the bill in its original form.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 26, 1987 Bill No. HB 302 Time 1:15 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman		X
Gene Thayer, Vice Chairman	X	
Richard Manning		X
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage		X
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Be Concurred In, And As Amended
(Thayer)

March 26, 1937

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 302

third reading copy (blue)
color

GRANTING PSC AUTHORITY TO ALLOW CLOSURE OF CERTAIN RAILROAD FACILITIES

BRADLEY (THAYER)

Respectfully report as follows: That HOUSE BILL No. 302
be amended as follows:

1. Page 1, line 14.

Following: "state"

Insert: "on January 1, 1937, or a successor there to,"

AND AS AMENDED,
BE CONCURRED IN
~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

Sen. John "J.D." Lynch
Chairman.

Proposed amendment to House Bill 302
Requested by Senator Manning
Third reading, blue copy

1. Page 1, line 14.

Following: "state"

Insert: "on January 1, 1987, or a successor there to"

GAZETTE OPINION

The Billings Gazette
Wed., Jan. 21, 1987Caboose law
at end of line

Time to switch it off

Burlington Northern is not the most popular business in Montana. It isn't even in second place.

But that's no reason to saddle the giant with antiquated laws.

There are two particularly onerous sections in current Montana statutes.

1. All trains in Montana must have cabooses.
2. Resident agents are required in all county seats and towns of more than 1,000 residents served by the railroad.

Both laws are obsolete.

BN Vice President William W. Francis told legislators in Missoula last fall that cabooses came into use when trains typically had 40 cars.

Modern trains are so long that a caboose does not offer sufficient visibility. New, automatic equipment provides better surveillance, Francis said.

At that same meeting, Joe Brand, state director of the United Transportation Union, defended the requirement of cabooses on long trains. He said they prevent accidents and help spot problems that automatic monitoring equipment would overlook.

"There are many things seen by the human eye that devices do not pick up," he said. "I don't know what the problem is. They (BN) are on a big binge to amend the law."

The problem is considerable.

Using cabooses in Montana costs BN about \$6 million annually, and as the recent wreck on the bridge nine miles west of Columbus indicates, the cabooses are no guarantee of safety.

Only Oregon and Virginia have caboose laws similar to Montana's. It's time to make that requirement a quaint piece of the state's history.

The agency law is equally irksome.

Montana law requires BN to maintain 66 agents in the state. North Dakota, by comparison, has only two. Some of these Montana offices do virtually no business.

Pat Keim, superintendent for the Havre division of BN, said agents once handled all customer-related functions for the railroad, including ticket sales, freight car orders, billing, telegraph and delivery of small shipments.

Now they are mainly middle-men between customers and centralized offices, he said, and maintaining the agency rule costs BN about \$2.5 million a year more than it should. Four agents — stationed in Laurel, Glendive, Missoula and Whitefish — could easily handle the work, Keim said.

A recent poll of the legislators in Helena indicated that the majority is amenable to taking the caboose and agency laws off the state's books.

That is good news.

New businesses are chary about entering a state that permits this kind of nonsense. The Legislature should dispatch these two statutes.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 3/24/87

BILL NO. HB 202

JAN 26 1987

MONTANA
PRESS CLIPPING SERVICE

A Division of
Montana Press Association
1900 N. Main, Suite C
Helena, MT 59601

Livingston Enterprises
Livingston, Montana

opinions

Freight-agent law outdated

This is the year Montana and its legislature are supposed to be searching for their makeup and reviewing their attitude toward business. A lot of the state — this town and county included — have borne the brunt of the state's "anti-business" reputation.

The Burlington Northern brought the attitude to the front burner by cutting back operations in Montana, including the shutdown of the local locomotive shops. There's a railroad bill being debated at the legislature that should be a real blow whether about how seriously the state wants to tackle its anti-business reputation.

The bill deals with freight agencies. The current Montana law, which dates in this case back to 1907, requires every county

seat on a rail line, and every town of over 1,000 persons on a rail line, to have a full-time freight agent. The idea dates back to when agents did a lot of things they don't do now — including servicing passengers, taking telegrams and loading milk cans.

Times, they are a-changing. No other state requires freight agents on the basis of location or population, but Montana still does. It costs the railroad an estimated \$2 billion a year to keep 60 freight agents on the job around Montana, when they could get by nicely with a small handful. In all of North Dakota there are only six agents, and Wyoming has only eight.

Rep. Dorothy Bradley of Bozeman has introduced HB302, a bill to abolish the agency requirement based on population or location, and make the requirement bas-

ed on need or traffic. The Public Service Commission would be empowered to decide if an agency is needed or not, based on evidence presented by the railroad and the general public.

That's quite a departure from tradition, or at least reputation, for Rep. Bradley. A few years ago, she was branded as being the most anti-business legislator in Helena, because of her strong stands on environmental issues. Rep. Bradley is a very sharp legislator, and can readily see the freight-agent law is outdated and needs repealing.

Most folks would have to agree. There's no sense requiring freight agents where they are not needed. A state which retains that kind of law on its books deserves an anti-business reputation.

Arguments against the repeal hold little water. Critics say shutting down the agencies just paves the way to abandonment of a line — but abandonment has to go through a review process based on traffic and need. In fact, the more we can help the railroad lower its overheads, by shutting down unneeded agencies, the more the railroad is likely to operate a line.

Other critics want to hang onto the law, just to protect the people who are currently freight agents from losing their jobs. It's just that kind of protectionism that gives the state a bad name for business.

The freight-agency law needs to be abolished, and Rep. Bradley's bill is a fair solution. The state would be silly not to enact it.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
4/24/87

OPINIONS

A railroad bill that should pass

Montana is unique in many ways and some of the unique aspects of this state deserve to be treasured.

On the other hand, we have some unique features that aren't so great.

One of the not-so-great aspects of Montana is a law regarding railroad station agents.

Montana has a law on the books that dates back to the turn of the century. It requires railroad agents and an agency in every town of 1,000 or more population and every county seat.

It's the only state in the nation with such a law on the books.

In other states, agencies are either required or closed based on public convenience and necessity.

The Burlington Northern Railroad has some 60 agents in Montana, while North Dakota and Nebraska have fewer than seven. Montana's agency requirement costs BN in excess of \$2 million a year.

That's \$2 million a year that has to be borne by the shippers in this state. Like it or not, artificial costs such as those required by Montana's unique law do have an effect on rates.

Agencies date back to an era when railroads ran passenger trains and before the advent of computers. Local agents had a multitude of assignments, including selling passenger tickets, loading milk cans and baggage and handling the U.S. mail. They also had many other duties.

AN
IR
VIEW

Because of changes in society and advances in business technology, the local agent no longer handles Western Union telegraphs and seldom serves passengers or performs most of the functions once necessary. Car orders, record keeping, freight handling and yard handling are, for the most part, computerized and handled through a customer service center.

Rep. Dorothy Bradley, D-Bozeman, is the principal sponsor of House Bill 302 which would take Montana's "unique law" off the books, bring this state fully into the 20th century and send a positive signal to business.

Bradley's bill would eliminate the agency requirement for an agency in every community with 1,000 people and/or county seat.

The bill states that "if a person, corporation, or association operating a railroad demonstrates to the public service commission, following an opportunity for a public hearing, that a facility is not required for public convenience and necessity, the commission shall authorize the closure, consolidation, or centralization of the facility."

Many agents have virtually nothing to do. We're sure there are a lot of good people, all but sitting on their hands, who would like to have their talents fully utilized. Bradley's bill gives the BN the opportunity to do just that.

Furthermore, it's highly unlikely that passage of HB 302 would result in immediate and wholesale closure of agencies in Montana.

The hearing process before the state Public Service Commission is going to take time and the BN is going to have to prove its case before the PSC will act.

It's probable that four, five or six years from now there will only be a handful of agents doing the work once handled by the 60 or so now on the job.

But, unlike the present law, Bradley's bill provides realistic criteria for keeping or closing an agency — public convenience and necessity.

It's a long overdue bill that deserves to become a law.

3/24/87
HB 302
ENTIREMENT

Network of 60 rail agencies is too costly for ratepayers

A committee hearing this morning may go a long way toward determining if the Burlington Northern Railroad's image is permanently tarnished in Montana — or seeing if the Legislature is willing to take off the boxing gloves and seek a partnership for economic improvement and lower rail rates.

At issue is House Bill 302, sponsored by Rep. Dorothy Bradley, D-Bozeman, which would give the Public Service Commission the option of holding hearings leading to the closure of some — or most — of the 60 freight agencies in Montana which BN says are outmoded and expensive to maintain.

The railroad is spending \$2 million per year to keep the agencies open. That cost is borne by customers through their rates.

State law presently requires the BN to maintain a freight agency in all county seats and other communities with 1,000 or more population. BN officials claim that local station agents no longer handle any vital business. Customers arrange for grain and freight shipments by telephone to a computerized service center. Car orders, record keeping, freight billing and yard handling are coordinated through a central office.

This trend toward consolidation and cost-saving is evident in all states but Montana, the railroad adds. North Dakota currently has six agencies and Wyoming has eight.

If agencies are closed, station agents would keep their jobs through union seniority agreements. Their most likely options would be to relocate or take early retirement.

Opposition to this measure will come from those who feel that rail service would suffer or that agency closures would be a prelude to branch line abandonment.

Bradley says, however, the experience in North Dakota is just the opposite. She quotes a member of that state's regulatory agency who says centralized service costs less and tends to keep marginal branch lines in operation.

We agree. Railroad regulation in Montana has remained in the dark ages, particularly with regard to mandated business and operational practices that are as outdated as steam locomotives.

If the BN demonstrates that agency closures will result in lower rates, the House Business and Labor Committee should approve the measure.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1DATE 3/24/87BILL NO. HB 302

Railroad bills should be passed

Two of Montana's laws regulating railroads have outlived their usefulness, and the Legislature should repeal them. Neither the state's mandatory caboose law nor the statute dictating where and how many railroad agents must be stationed is justified on the basis of public need, convenience or safety.

Both laws provide a large measure of job security for certain railroad employees. Changing the laws is the first step toward negotiated reductions in the number of people working on the railroad. That makes the changes painful.

But the two laws also are an illogical and unwarranted intrusion by state government into the business affairs of the railroads. The state's uneasy working relationship with Burlington Northern Railroad makes such intrusion politically popular, although not well justified.

Montana is one of three states that require trains over 2,000 feet long to have an occupied caboose in tow. The Legislature adopted the requirement in 1983 in hopes of protecting public safety. The law was intended to head off steps by railroads and national rail unions to phase out the use of cabooses.

Cabooses, in most cases, are obsolete. Their use began when brakemen had to apply brakes manually in each car. Acting on an engineer's whistle, the brakemen had to scramble to each car to engage and disengage the brakes, and having men positioned at the end of the train allowed faster braking.

Flagmen were stationed in the caboose to signal approaching trains. Crewmen riding in the caboose also watched for equipment failure, fires and other hazards.

Today, brakes for the entire train are controlled by a brakeman riding in the engine; modern signaling technology has replaced the flagman's function; and electronic monitoring equipment can do — in the railroad's view — a better job than people of detecting equipment problems.

Burlington Northern Railroad disputes the rationale behind Montana's caboose law — that cabooses improve train safety. BN cites statistics from the National Railway Labor Conference, which found in a study that trains with and without cabooses have essentially the same frequency of accidents. However,

accidents in trains with cabooses were more severe in terms of employee injuries.

Caboose proponents claim crews in cabooses prevent accidents or reduce their severity. But they haven't proved their case. What's more, a federal appeals court in St. Louis overturned Nebraska's caboose law last year, declaring the statute an illegal barrier to interstate commerce.

The other railroad law in need of change — the one requiring a railroad agency in every county and every town of more than 1,000 residents served by the railroad — is tantamount to legislated featherbedding. The law requires BN to have more than 60 railroad agencies, despite the fact the railroad says it doesn't have enough work to keep a fraction of the agents busy. Most of the car-ordering, record-keeping and billing work traditionally done by local agents can now be handled on a regional basis by computer.

In Nebraska, a state that doesn't interfere in the assignment of private employees, BN has 7 agencies. Whether BN can adequately serve Montana with significantly fewer agencies is a matter the state Public Service Commission must decide.

Changing the agency law won't result in any immediate office closures. Any plan to eliminate or consolidate offices must be approved by the PSC, which would hold hearings and accept public testimony. To win PSC approval, BN would have to show that the change is in the interest of public convenience and necessity. If the railroad can persuade Montana's adversarial PSC to close agencies on those grounds, then they ought to be closed.

The caboose and agency laws mandate inefficiency. They require anyone who ships or receives goods via rail to subsidize unproductive, obsolete jobs. One of the greatest roadblocks to economic development in Montana is its expensive, uncompetitive rail transportation. The caboose and agency laws only make the problem worse.

Sen. Tom Keating, R-Billings, has introduced a bill (SB 154) to repeal Montana's caboose law; Rep. Dorothy Bradley, D-Bozeman, has drafted legislation (HB 302) to allow BN to close unnecessary agencies. Both bills should be approved.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 2/24/87
BILL NO. SB 302



Public Service Commission
State of North Dakota

COMMISSIONERS

Leo M. Reinbold
President
Dale V. Sandstrom
Bruce Hagen

State Cap
Bismarck, North Dakota 581
701-224-2
800-932-2
Toll Free in North Dak

January 14, 1987

Secretary, Janet A. Ell

The Honorable Dorothy Bradley
Montana State House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Bradley:

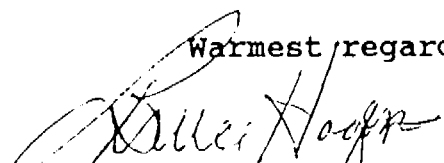
I understand that you have introduced a bill that proposes to modify railroad agency requirements in Montana. I have been a public service commissioner for over 25 years, and I thought you might appreciate my thoughts on the subject.

Both of North Dakota's major railroads now utilize centralized agency services. The initial railroad application to centralize agency services in North Dakota was filed over ten years ago. Our Commission held a hearing on the proposal and, perhaps somewhat reluctantly, granted the application. Since that time, we have considered many proposals and have approved them all, either in whole or in part. Virtually all of North Dakota's agencies have now been "centralized".

If "The proof is in the pudding," I must say that the railroads' approach to centralized agency services is well received. We have had virtually no complaints regarding services. Extended hours, toll-free numbers, etc., have resulted in excellent services to shippers.

Centralized agency service has helped lower our railroads' operating costs in North Dakota, have contributed to obtaining lower freight rates, and have helped retain branchline viability. Our Commission encourages carrier efficiencies if they can be accomplished without adversely affecting services. Centralized agency services have been a success story in this regard.

Warmest regards,


Bruce Hagen
Commissioner

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 3/24/87
BILL NO. AB 323

AGENCY WORK PERFORMED

AGENCIES	Bills of		Car		Match/ Tracing
	None	Lading	Orders	Demurr.	
62	36	12	20	8	15

Agents at the agencies sometimes perform other non-agency work. Non agency work includes: train orders, track lineup, completing RUIA claims, handling switching instructions, crew calling, prepares reporting and paying utility bills. All this work except compass reporting and Amtrak work could be accomplished from a central agency or by personnel on the train crews.

Eight of the agents who perform no Agency work also have no non-agency work. Four approve their utility bills for payment by St. Paul as the only non-agency work.

Definitions

Bills of Lading: The agent receives the paperwork for the shipments that are outbound. The initial paperwork on the shipment is completed by the shipper.

Orders: The agent orders cars for delivery to shipper at a specific time and location.

Carriage: The agent logs the cars are "spot time" or delivered time and then the "released time" determine if a charge is owed for "car rent."

Matching and Tracing Inbound Revenue Waybills: The agent is responsible for identifying that an inbound shipment has the appropriate transportation charges -- matches the revenue waybill with car movement waybill.

Train Orders: Train orders are specific instruction for operation of the train and movement of the

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 3/24/87
BILL NO. 48382

OPEN STATIONS

	MONTANA	WASHINGTON	OREGON	WYOMING	NORTH DAKOTA
# OF AGENCIES	62	16	6	8	6
BN MILES OF TRACK	3,137	3,031	643	966	3,246
<u>9 MONTHS OF 1986</u>					
Carloads originated	257,851	249,041	56,215	658,284	115,673
Carloads terminated	<u>31,212</u>	<u>242,991</u>	<u>64,595</u>	<u>45,135</u>	<u>27,968</u>
TOTAL	289,063	492,032	120,810	703,419	143,641

SENATE LABOR & EMPLOYMENT
 EXHIBIT NO. 1
 DATE 3/24/87
 FILE NO. 149,130

TESTIMONY ON HB 302

MR. CHAIRMAN:

FOR THE RECORD, MY NAME IS PAT KEJM. I AM FROM HAVRE, MONTANA AND I AM THE SUPERINTENDENT OF THE MONTANA DIVISION OF BURLINGTON NORTHERN RAILROAD.

302 I AM HERE TODAY TO SPEAK AS A PROONENT FOR HB 302.

302a THIS BILL WILL REMOVE FROM THE STATUTES THE LAW REQUIRING
302b UNNEEDED RAILROAD AGENCIES THROUGHOUT THE STATE. IT WOULD PLACE
302c THE REQUIREMENT FOR SUCH AGENCIES WITH THE PSC ON THE BASIS OF
302d BENEFICIAL NEED, NOT ARBITRARY AND PUNITIVE MANDATE. ANY AGENCY
302e CLOSING WOULD STILL HAVE TO PASS THE SCRUTINY OF THE PSC ON A
302f CASE-BY-CASE BASIS.

302g MONTANA PRESENTLY HAS SIXTY-SOME LOCAL RAILROAD AGENCIES AND
302h IT IS THE ONLY STATE WITH A LAW MANDATING THEM ON THE BASIS OF
302i POPULATION AND NOT NEED. THERE WAS A TIME WHEN THESE AGENCIES
302j WERE NECESSARY. MANY OF YOU CAN REMEMBER BUYING TRAIN TICKETS
302k FROM THEM. THEY HANDLED MILK CANS, SMALL FREIGHT, TELEGRAMS,
302l TRAIN ORDERS, RATES, BILLING AND SEVERAL OTHER ACTIVITIES.

302m BUT, IN MOST CASES, THAT TIME IS PASSED. COMMUNICATIONS AND
302n TECHNOLOGY MAKE IT POSSIBLE TO BETTER SERVE THE NEEDS OF THE
302o SHIPPER THROUGH CENTRALIZED AGENCIES WHICH HAVE DIRECT CONTACT
302p WITH THE SHIPPERS IN THE FIVE AREAS OF AGENCY WORK:

- 302q 1. CAR ORDERING
302r 2. WAYBILLING
302s 3. TRACING
302t 4. RATE QUOTATION

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 2/22/1977
BILL NO. HB 302

AND 5. DEMURRAGE.

central agency
IN MONTANA, ALL OF THE WORK IS ALREADY DONE IN FIVE CENTRAL
AGENCIES LOCATED AT GLENDIVE, LAUREL, MISSOULA, WHITEFISH AND
GREAT FALLS.

THE LOCAL AGENCIES DO NOT HANDLE ANY OF THESE FUNCTIONS
LOCALLY. IF ASKED BY THE SHIPPER TO DO ANY OF THEM, THE LOCAL
AGENT HANDLES THE REQUEST WITH THE CENTRAL AGENCY THE SAME AS
MOST SHIPPERS ALREADY DO.

customer's car needs
OPPONENTS OFTEN TELL ABOUT LOCAL AGENTS MAKING SURE THE
CUSTOMER'S CAR NEEDS ARE MET. THE FACT IS, THIS PROCESS IS
HANDLED BY THE CENTRAL AGENCY WHICH DISPATCHES THE CARS, THE
CREWS TO SPOT THEM AND, WHEN NEEDED, REPAIRMEN TO SERVICE THEM.
IT MAKES NO DIFFERENCE WHETHER THE SHIPPER CONTACTS THE LOCAL
AGENT OR THE CENTRAL AGENCY EXCEPT THAT WHEN THE SHIPPER CONTACTS
THE LOCAL AGENT HE/SHE DOES NOT DEAL DIRECTLY WITH THE PARTY
DOING THE WORK.

Montanans
MONTANANS ARE CONCERNED ABOUT RATES AND ABOUT MAINTAINING
RAIL SERVICE ON BRANCH LINES. THE ABILITY TO HOLD DOWN RATES AND
MAINTAIN THE VIABILITY OF BRANCHLINE SERVICE IS DEPENDENT ON THE
ABILITY TO CONTROL AND REDUCE COSTS. WHEN NEEDLESS COSTS, SUCH
AS 60+ UNNECESSARY AGENCIES, ARE IMPOSED YOU INCREASE RATES AND
DECREASE THE VIABILITY OF MARGINAL OPERATIONS.

THAT IS WHAT THIS BILL IS REALLY ABOUT.

agents
YOU OFTEN HEAR CONCERNS EXPRESSED ABOUT THE SECURITY OF THE
AGENTS. MANY OF THEM ARE NEAR RETIREMENT AGE. MOST OTHERS ~~WILL~~ CAN
BE UTILIZED IN DIFFERENT POSITIONS. THESE ARE GOOD EMPLOYEES AND
MOST OF THEM WOULD PREFER A MORE PRODUCTIVE POSITION BECAUSE

EXHIBIT NO. 2

DATE 3/24/77

THERE ISN'T ANYTHING MORE DEMEANING THAN TO SIT FOR 8 HOURS A DAY W/
NOTHING MEANINGFUL TO DO.

AGAIN, I STRESS THAT WHAT THIS BILL DOES IS REMOVE THE
ARBITRARY POPULATION REQUIREMENT FOR THESE AGENCIES AND ALLOWS
THE PSC TO DECIDE EACH CASE ON THE MORE PROPER BASIS OF PUBLIC
NEED.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 3/24/87
BILL NO. HR 302

March 24, 1987

Montana State Senate
Labor and Employee Relations Committee

Chairman Lynch, members of the Committee:

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 3/24/87
BILL NO. HB 302 ✓

For the record, my name is John Palmer. I reside at 301 South Montana Ave. Fairview Mt. I am manager of the Harvest States Cooperatives Bean plant. I've been manager since 1979.

Since December 1985 we have done our railroad business directly with B.N.'s office in Glendive Mt. ^{EVEN} ~~though~~ though there is a depot agent stationed in Fairview. We order cars, bill and release cars and monitor their movements all by telephone or ~~the~~ ^{by} mail. I was at first skeptical of this system but I can now testify to its merits.

Public Service Hearings

Prior to 1985 we averaged from 11 to 18 single car shipments per year. Because of Company restructuring and economic factors we have seen a large increase in the edible bean business. Similar factors have led to a reduction in our local work force. We have had to become more efficient to stay in business. During fiscal year 1986-87 we have shipped 68 single-car shipments and have not had one major problem with *any* of those shipments.

If there had been some sort of law on the books which would have limited our ability to become ^{more} efficient in our work, I'm sure we would be closed and boarded up like many of main street Montana's businesses.

House bill 302 will permit the Montana Public Service Commission to allow railroad Co's in Montana to become more efficient where possible. Forcing them to maintain unnecessary stations will surely limit their efficiency and who knows where that may lead to. *I encourage you to read of this*

Mr. Mike Strawbridge
Vice President and General Manager
Ideal Cement Company
Trident, Montana

Presentation before the Senate Committee on House Bill #302
March 24, 1987
Helena, Montana

Members of the committee, I am Mike Strawbridge, vice president and general manager of the Montana Division of Ideal Basic Industries at Trident, Montana. On behalf of Ideal, I am here in support of House Bill 302.

Ideal has operated in this state for nearly 77 years and employs over 100 people in Montana. The Trident plant has always relied on rail service to transport our finished cement to customers. In 1986, over half of our production (2000 rail cars) was shipped outside of Montana. The most economical method of shipping long distances is by rail. Without the economy of rail transportation, Ideal would face more and longer layoffs of employees. If the product can not be shipped out to customers, production must be curtailed.

Passage of House Bill 302 will signal a start in reducing the financial burden imposed on railroad systems operating in Montana. The easing of their burden will ultimately be financially beneficial to those Montana businesses that rely on rail transportation for the shipment of products.

I want to emphasize that Ideal is not advocating the elimination of current railroad agent jobs. We are, however, supporting the fact that this bill would allow motions to be brought before the public service commission to close, consolidate or centralize agent offices in those locations where fewer

page -2-, House Bill 302, Mike Strawbridge

agents are needed than now required by state law.

The burden of paying for non-productive jobs, such as unneeded railroad agents, is being passed on to Montana customers through increased freight rates. House Bill 302 will help ease this burden by placing control of how railroads run their business back in the hands of the railroads and their customers. After all, it is to the railroad's advantage to provide quality service if they are to maintain a profitable business.

Montana's state government can no longer afford to retain laws that protect unproductive work. Montana businesses face too much interstate competition. Again, members of the committee, I urge you to vote for passage of House Bill 302.

SENATE LEADER & CLERK

EXP

DATE

5

3/24/87

CITY of GLENDIVE

300 SOUTH MERRILL

GLENDIVE, MONTANA 59330

TELEPHONE
365-3318

Office of: Mayor

March 23, 1987

J D Lynch, Chairman
Labor and Employment Relations
Capitol Station
Helena MT 59620

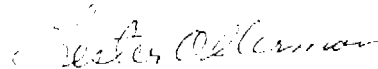
Dear Senator Lynch:

As Mayor of the City of Glendive, I ask that you support HB-302. Burlington Northern contributes very much to the economy of our City. We must foster a good business climate in our State for those corporations whether they be big or small who are willing to invest in our communities.

The Burlington Northern is a major employer in our City. We have a large supply of coal in Eastern Montana and we need to encourage its development. Burlington Northern is critical to this industry.

The Agency Bill will correct a poor business practice and save the Burlington Northern money. Let us encourage and promote business in our State. We cannot be competitive unless we correct some of the undesirable laws.

Sincerely,



Lester Ollerman
Mayor

SENATE LAB. &
EXHIBIT NO. 6
DATE 3/24/87
BILL NO. HB 302

BEFORE THE
LABOR AND EMPLOYMENT COMMITTEE MONTANA SENATE
50TH LEGISLATIVE ASSEMBLY, 24-MARCH-1987

STATEMENT OF JAMES T. MULAR, STATE LEGISLATIVE DIRECTOR
BROTHERHOOD OF RAILWAY & AIRLINE CLERKS,
440 ROOSEVELT DRIVE, BUTTE, MONTANA 59701

Mr. Chairman: Members of the Committee, my office has been directed to appear before this committee in opposition to HB 302. BRAC opposes this bill for many reasons.

1. If you would look at your packet. We've prepared a sided by side comparison of the existing statute. (Sec.69-14-202MCA) And a reproduction of representative Bradley's bill along side. Note: That existing law defines the illusive common law term "PUBLIC CONVENIENCE AND NECESSITY"

Our Montana Rail Station statute defines Public Convenience & Necessity by establishing a population criterion of 1,000 inhabitants, and least one in each county, preferably the county seat. This definition has been upheld in three court cases. (a) the first was in 1970 a year after the law was amended by Senator Skeff Sheehy. (re-Mular v Mont PSC and Milw RR. (b) the second action took place in Federal District Court Billings in 1983 (BN v MPSC/Rwy. Labor Exec. Assoc. Cause No. CV 82 1/3 Bigs. Judge Battin) The law was upheld on a constitutional challenge by BN Ry.Co.(c) BN appealed from the Fed. Dist. Court Decision. A three judge panel upheld the lower court decisions.(re:US Ct.Appeals 9th Circ. case no.84-3491 Jun 21, 1985) We've included a copy of that decision in your packet.

Note: On page 8 of that decision the court held in part* "...we cannot conclude that the legislature's 1969 decision was arbitrary, or irrelevant to the statute's dpurpose of SATISFYING PUBLIC CONVENIENCE AND NECESSITY....."

Nothing has changed since this 1985 decision. Montana towns of 1,000 or more people deserve resident railroad agents and facilities. Opponents would have you believe that removing station facilities, and transacting railroad transportation business with a remote toll free number, satisfies public convenience and necessity. It's nothing more than closing a business in our communities and directing the patrons to make their orders in another out of state community.

OPPONENTS: would also have you believe that Montana's station law is unique, and that no other jurisdiction has such laws applying to railroads.

ILLINOIS requires maintenance of passenger and freight depot in all towns having a population of 200 or more. Ill. Ann. Stat. Ch. 114, Sec 48 (Smith-Hurd 1954)

TEXAS requires maintenance of depots in every county seat. Tex. Stat. Ann. Art.6354 (Vernon 1925)

SENATE LABOR & EMP. DIVISION

EXHIBIT NO. 7

DATE 3/24/87

2. B.N. has not stopped trying to withdraw its' agency services from Montana. We are presently down to 63 railroad stations in Montana. When the Sheehy legislation was enacted there were over 250 RR stations. The Public Service Commission over the past 18 years has either consolidated and/or closed all but 63 stations.

As we stated BN has again appealed to the 13th Jud. Dist. in Billings, challenging the reasonableness of our Montana PSC's decision not to close Fairview^^ (over 1,000 people)^^Circle (county Seat Micone County less than 1,000) and Terry Montana (less than 1,000 county seat Valley)...We allege that representative Bradley's HB 302 is seeking legislative judicial remedy. Because BN's pleadings surrounded the Public Convenience and Necessity Issue. (re BN v PSC/BRAC cause DV 86-1548 Mt. 13th Judicial Dist.)

We allege that if HB 302 passes this session the State Dist. Court will dismiss the above cited action for mootness.

On the other hand if that court finds for BN Ry. Remedial PSC orders would consolidate communitys of 1,000 or more and also county seats. WE SUBMIT TO THE COMMITTEE THAT WE OUGHT TO WAIT UNTIL OUR STATE COURTS RESOLVE EXISTING PUBLIC CONVENIENCE & NECESSITY CRITERION.

3. Another problem with HB 302 appears on the cut off date beginning on line 25 page 1 and ending on line 1 page 2. Shortline acquisitions would be exempt from complying with existing law, and exempt from complying with HB 302. Because there are no provisions dealing with public interest or for that matter any proviso's dealing with a community request for shortline station facilities.

WE SUGGEST THAT THE COMMITTEE INCLUDE AN AMENDMENT THAT IMPOSE STATION AGENCY SERVICES ON SHORTLINE OPERATIONS. RR shortline operators owe a public duty to perform agency functions and services.

4. Another ambiguous provision begins on beginning on line 3 of page 2 after the word 'operating'....."a railroad demonstrates to the public service commission".....
This language does not define what must be DEMONSTRATED.

Does it mean that even if a station is profitable there is no shippers necessity for having the station remain staffed?

It would appear that a profitable station is one that enjoys shippers patronage. Would you close a shoe store or any other business if it was profitable?

Does the word DEMONSTRATE mean that during the course of a hearing local government asserts public and economic interest this would fail the demonstrated test, because shippers were not involved in the hearing process.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO 7
DATE 3/24/87

CONCLUSIONS

Mr. Chairman, members of the Committee. We submit to you that during your deliberations on HB 302 you consider the merits of our testimony. The facts we've presented address the grave consequences of future rail services in our state.

FIRST: Is BN a captive carrier operating Montana? Don't they owe a public duty as a common carrier by rail to enhance local community economic development? Or is there an implied scheme to close all Montana stations and skim the dollar fat from our towns by having local shippers perform agency work without freight rate reductions.

SECONDLY: With BN's announcement to sell off portions of their rail system in Montana what obligations should shortline operator have in serving Montana Communities. Especially when they will not be computerized like BN Ry Co.

LAST: Should this legislature interfere in judicial litigation now pending state district court.

WHHEREFORE: We respectfully request this Committee kill HB302 until the courts of this state can resolve the issue of Public Convenience & Necessity, and its reasonableness to our communities.

Respectfully submitted,

James T. Mular, State
Legislative Director BRAC

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 7

DATE 3/24/87

FILE NO. HB 302

Glendive

Forward



Of Montana

200 N. Merrill Ave. • P.O. Box 930
Glendive, Montana 59330
(406) 365-8612

March 20, 1987

Senators
Labor and Employment Relations Committee
Capitol Station
Helena, MT 59620

Dear Senator,

This letter is written in support of HB-302. Glendive Forward is an economic development Corporation, and as such we are interested in enhancing not only the economic stability and development of Glendive, but the State of Montana, as well. We feel HB-302 will be a move toward improving economic conditions in Montana.

Glendive Forward has made a commitment to assist and support those industries that are vital to our continuing economic stability. Burlington Northern employs 271 people--an increase of 50 jobs in the last two years--with an annual payroll of over \$8 million. They have been good corporate citizens to our community, contributing thousands of dollars to our Hospital Development Corporation, and well over \$100,000 to Dawson Community College and Vo-Tech Center.

We are proud to be a community willing to stand up and say that BN's presence and the jobs that they provide are vital to our economic base. The willingness to work together has made a difference. We sincerely believe that the State of Montana needs to re-evaluate it's attitude toward it's corporate family and to establish the same motto that we have:

"WORKING TOGETHER CAN AND DOES MAKE A DIFFERENCE"

We ask that you support HB-302. In doing so, you will help assure the continuing relationship that Glendive Forward and our community has strived to develop with Burlington Northern. Economic development in many cases, means "one new job, one new family at a time." We sincerely hope that BN is allowed the space to continue to grow and develop in our community.

Sincerely,

Kathy Sparr

Kathy Sparr

Executive Director

SENATE CLERK

FILE NO. 6

DATE 3/24/87

BILL NO. HB 302

Beginning on line 25 page 1:

Strike period add comma: "and/or any such facilities that exist after January 1, 1987 that are the subject of an acquisition, transaction or service operating agreement as defined in the Staggers Act of 1980.

Beginning on line 3 page 2 after the word 'hearing, add:

"in the community where the facility is situated".....

Line 4 page 2 after the word THAT strike 'a' add THE

and after the word NOT add PROFITABLE, AND required for public convenience and necessity,.....

WITH AMENDMENTS BILL WOULD READ:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-14-202, MCA, is amend to read:

"69-14-202. Duty to furnish shipping and passenger facilities. (1) Every person, corporation, or association operating a railroad in the state shall maintain and staff facilities for shipment and delivery of freight and shall ship and deliver freight and accomodate passengers in such facilities as were maintained and staffed on January 1, 1987, AND/OR ANY SUCH FACILITIES THAT EXIST AFTER JANUARY 1, 1987 THAT ARE THE SUBJECT OF AN ACQUISITION TRANSACTION, OR SERVICE OPERATING AGREEMENT AS DEFINED IN THE STAGGERS ACT OF 1980. (BRAC amendment one)

(2) However, if a person, corporation, or association operating a railroad demonstrates to the public service commission, following a hearing, IN THE COMMUNITY WHERE THE FACILITY IS SITUATED, that THE facility is not PROFITABLE, AND required for public convenience and necessity, the commission shall authorize the closure, consolidation, or centralization of the facility.

NEW SECTION. Section 2. Extension of authority. Any existing authority of the public service commission to make rules on the subject of the provisions of this act is extended to the provisions of this act. -End-

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
DATE 3/24/87
BILL NO. 413 302

File HB302b

Proposed amendments to HB 302

Beginning on line 25 page 1:

Strike period add comma: "and/or any such facilities that exist
after January 1, 1987 that are the
subject of an acquisition, transaction
or service operating agreement as
defined in the Staggers Act of 1980.

Beginning on line 3 page 2 after the word "hearing, add:

"in the community where the facility is situated".....

Line 4 page 2 after the word THAT strike 'a' add THE

and after the word NOT add PROFITABLE, AND required for public
convenience and necessity,.....

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
DATE 3/24/87
BILL NO. HB 302

PRESENT LAW READS:

) AMENDED LAW WILL READ:

Sec. 69-14-202. Duty to furnish)
 shipping and passenger facil-)
 ities. (1) Every person, corp-)
 oration, or association operat-)
 ing a railroad in the state)
 shall maintain and staff fac-)
 ilities for shipment and deli-)
 very of freight and shall ship)
 and deliver freight and accom-)
 odate passengers in at least)
 one location, preferably the)
 county seat, in each county)
 through which the line of the)
 railway passes and at any)
 point upon the line of such)
 railway where there is a city)
 or town having a population,)
 according to the last federal)
 census, of not less than 1,000)
 provided, however, that this)
 section shall not require the)
 maintenance and staffing of)
 such facilities in any county)
 or at any city or town in)
 which such facilities were not)
 maintained and staffed on)
 July 1, 1969.....)
 (2) Nothing in this section)
 authorizes the discontinuance)
 of any facility presently est-)
 ablished in any city, town, or)
 other location having a pop-)
 ulation of less than 1,000)
 without a hearing before the)
 public service commission as)
 provided by law.....)

Sec. 69-14-202. Duty to furnish
 shipping and passenger facilities
 (1) Every person, corporation, or
 association operating a railroad
 in the state shall maintain and
 staff facilities for shipment and
 delivery of freight and shall
 ship and deliver freight and acc-
 omodate passengers IN SUCH FACIL-
 ITIES AS WERE MAINTAINED AND
 STAFFED ON JANUARY 1, 1987.

(2) HOWEVER, IF A PERSON, CORPOR-
 ATION, OR ASSOCIATION OPERATING A
 RAILROAD DEMONSTRATES TO THE PUB-
 LIC SERVICE COMMISSION, FOLLOWING
 AN OPPORTUNITY FOR A PUBLIC HEAR-
 ING, THAT A FACILITY IS NOT REQU-
 IRED FOR PUBLIC CONVENIENCE AND
 NECESSITY, THE COMMISSION SHALL
 AUTHORIZE THE CLOSURE, CONSOLIDA-
 TION, OR CENTRALIZATION OF THE
 FACILITY.

NEW SECTION: Section 2. Extension
 of Authority. Any existing author-
 ize of the Public Service Comm-
 ission to make rules on the subj-
 ect of the provisions of this act
 is extended to the provisions of
 this act. -End-

QUESTION OF FACTS:

1. HB 302 does not define what PUBLIC CONVENIENCE AND NECESSITY MEANS?
2. The present law defines PUBLIC CONVENIENCE AND NECESSITY as serving cities/towns with 1,000 population, and at least one in each county.
3. Repr. Bradley's Bill does not address the ROAD BUSINESS CLIMATE issue heralded by Burlington Northern. If BN has had business at its Montana Stations why not include station

EXHIBIT NO. 7

DATE 3/24/87

4. We would ask if this bill addresses the continuance of agency service if BN sells a rail line segment to a shortline operator. More specifically refer to lines 24 and 25 of the Bill. The bill freezes existing stations only for those persons, corporation(s), or association(s) presently operating a rail line. QUESTION: Does this exclude successor(s) entities operating a railroad.
5. Line 3 page 2 of the bill gives opportunity for a public hearing. WILL THE OPPORTUNITY FOR A PUBLIC HEARING BE HELD IN THE COMMUNITYS WHERE THE STATION FACILITY IS LOCATED? *AMENDED IN,* We allege that the new section beginning on line 12 page 2 would give the Railroad the right to petition for a hearing at the Commission headquarters in Helena. Thus inconveniencing cities and towns from attending and protesting the closures. This supported by the new section extending rule making powers to the Commission. The Montana Administrative Procedure Act does not require a public hearing be held where the matter at issue arises.
6. B.N. alleges that keeping Montana Rail Stations open is a part of 'Bad Business Climate'. HB 302 does not address or define profitability of a rail station. At all the station closure hearings I've attended BN enters cost/profit statistics in evidence supporting their applications for closure. IS IT REASONABLE TO CLOSE A PROFITABLE BUSINESS?
7. Reference is made to line 4 page 2 of the bill. Note that the Public Convenience & Necessity test is illusive, it does not mention PROFITS: which is the reasonable factor for closure. If a station is PROFITABLE wouldn't it be REASONABLE to keep it open, because NECESSITY DICTATES agency continuance for the SHIPPERS PATRONAGE????

CONCLUSIONS

1. HB 302 does not address PROFITABILITY as a factor for Public Convenience and Necessity.
2. BN could sell a rail line segment to a shortline operator and that entity would not be subject to Montana Station Laws. Because the cut-off applies to those facilities in existence on January 1, 1987. This not address subsequent rail-line sale
3. Public Hearings could be held in Helena under the Montana Admin. Procedures Act, and cities/or towns would have to travel miles to protest BN's next massive application to close stations.
4. The legislature should keep a population criterion defining PUBLIC CONVENIENCE AND NECESSITY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
DATE 3/24/87
BILL NO. HB 302

Good Afternoon Gentlemen--

My name is Ed White

I work as the Rate Supervisor/Cashier at the BN Yard Office in Great Falls.

I strongly urge you to oppose this House Bill 302

We are concerned here with a change in an existing statute.

This law was established due to what was considered Public Convenience & necessity. The smaller communities in this state were in need of transportation. The railroad was

GIVEN land to build, establish and maintain a railroad to satisfy these needs. I might add that this given land has

produced many mineral, land and timber profits to the railroad over the years. Profits which, under the new "Holding Company" format, never show as railroad income.

In order to insure that the railroad lived up to their obligations and promises of maintaining service to these smaller communities, the law envisioned some minimum requirements imposed on the carriers. It did not require the impossible, that is, service to every community. Transportation is still important to these smaller communities. This law is still important on the books & for the same reasons as when it was passed, as a deterrent to leaving these communities high & dry without any railroad service. The Railroad Representatives say they have no intention of abandoning these smaller communities. I believe that is probably what they told the areas around the Denton and Geraldine branch and the State when they took it over from a withdrawing MILW Ry. Most all of you probably know what happened there. "A point to ponder" -- If they have no

SENATE LABOR & EMP.
EXHIBIT NO. 8
DATE 3/24/87
BILL NO. HB 302 ✓

intention of abandoning these small communities, why do they spend this high priced effort attempting to change the law.

Lets look a little deeper into motives. The railroad has all kinds of experts who can come up with a large figure of savings if stations are abandoned. They may hint of lower rates possible if these savings are allowed. This does not seem to historically be the case. Small stations not subject to this law have been allowed to close by the Public Service Comm. and segments of lines abandoned, but did you see any noticeable general rate reduction directly attributed to these cost reductions. Any rate reductions were done via the method of issuing private contracts to individual shippers. I also note in a recent news article that the railroad announced it was planning to go out of the contracts business & revert back to regular tariff rates, which are generally higher. All this should generally tell proponents of this House Bill that if they think there will be lowered rates out of this, they had better take a second look.

Lets examine any potential savings to the carrier that may be realized thru this bill. The carriers seem to agree that there will be no reduction in wages paid due to the Union Agreements for Job Protection that were signed . Therefore there would seem to be no savings to the railroad with regard to wage cost. So the only apparent savings seems to be if the station is torn down and/or removed which would reduce the railroads tax liability. You people who are representing these smaller communities should consider this loss to the community.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 8
DATE 3/24/87

The employees of the B.N. were recently invited to attend an Economics Seminar at many various places on the System at considerable expense to the carrier. At that seminar the economics of an imaginary company were examined. The figures used were supposed to be B.N.'s actual figures. The bottom line was the Company was making money but in order to get more money for the stockholders, or what is called "R.O.I.", (Return on investment) something had to be done. The only "apparent" solution in the seminar was to reduce employee costs and you were left to your own imagination as to how to accomplish this. They indicated they were making money but wanted more.

I believe that public convenience & necessity would dictate that we leave the present law intact as it is. Somewhere down the line, as times change and as technology advances with its' customary leaps and bounds, the time may appear that the railroads should be released from the requirements imposed by the existing law. BUT that time is not now.

I urge you to vote down this ill-timed proposal called HB302.

SENATE LABOR & EMP. ORG.
EXHIBIT NO. 8
DATE 3/24/87
BILL NO. HB 302

HONORABLE SENATORS

MY NAME IS JOE SHANNON. I AM THE LEGISLATIVE REPRESENTATIVE FOR B. R. A. C. LODGE # 528 OF GREAT FALLS, MT.

I HAVE 43 YEARS RAILROAD SERVICE, 40 OF THESE YEARS AS A STATION AGENT.

WHEN THE MILWAUKEE ROAD LEFT THE STATE, MY STATION JOB AT DENTON WAS TRANSFERRED TO THE B.N. RAILROAD. THE PAST 7 YEARS I HAVE WORKED AS AGENT AT STANFORD, MT AND DIRECT SERVICE AGENT, SERVING ON A DAILY BASIS FERGUS, JUDITH BASIN, AND WHEATLAND COUNTIES. CUSTOMERS INCLUDE GRAIN ELEVATORS, TERMINAL, FERTILIZER & FEED, LUMBER MILL, FARMERS, AND SMALL BUSINESSES.

COMPUTERS AND 800 NUMBERS WILL NEVER REPLACE HUMAN CONTACT AS AN EFFECTIVE TOOL OF CUSTOMER RELATIONS

STATION AGENTS PROVIDE PERSONAL, CARING CUSTOMER SERVICE. THAT PERSON LIVES AMONG HIS/ CUSTOMER BASE ON A DAILY BASIS. THIS AFFORDS THE RAILROAD THE BEST OPPORTUNITY FOR ANALYZING CUSTOMER PREFERENCES AND NEEDS IN THE LOCAL AREA.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 9
DATE 3/24/87
BILL NO. HB 302

14-00000

$$\langle \cdot | \psi(t) \rangle = \langle \cdot | \psi(0) \rangle + \langle \cdot | \hat{H} | \psi(0) \rangle t + \langle \cdot | \hat{H}^2 | \psi(0) \rangle \frac{t^2}{2} + \dots$$

HELLEBA MONSIEUR .

February 10, 1987

ATTENTION: Caseworker/Mrs. Meadors

At your request, I have reviewed the employment subsidies with reference to the Montana Western Railroad and the Job Service Officers of Deer Lodge and Silver Bow Counties. It appears that Montana Western is utilizing the federal-state job training program for three of its employees. It has been verified that the Job Service solicited Montana Western's participation in the program. The railroad originally approached Job Service looking for experienced railroad personnel and were asked to utilize the federal job training program.

Each employee receives \$320.00 per week. Subsidy would be \$160.00 from federal funds.

$$\frac{\text{Employees}}{3} \times \frac{\text{Wage}}{\$160} \times \frac{\text{Weeks}}{26} = \$12,480$$

Job Service states that the program has been effective in finding employment for unskilled workers with chronic unemployment. Montana Western states that their three job trainees are working out very well.

1 - office manager
2 - 2 class employees

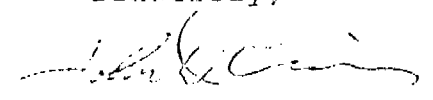
SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 10
DATE 3/24/97
BILL NO. HB 302

Page 2
The Honorable Ron Marlenee
February 10, 1987

Montana Western offered no other explanation of why they chose Job Service over other resources to recruit employees.

I hope this answers your questions to some extent. If we can be of further assistance, please let me know.

Sincerely,



John D. Craig, Chief
Intermodal Commodities Bureau
Transportation Division
(406) 444-3423

JDC/sc

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 10

DATE 3/24/87

BILL NO. HB 302

February 2, 1987

William J. Fogarty, Administrator
Transportation Division
Department of Commerce
1424 9th Avenue
Helena, MT 59601

Dear Bill:

As you know, I was recently invited to attend a meeting consisting of several union crafts regarding the proposed sale of the BN Southern Line. At this meeting I received a formal request to obtain the following information.

Apparently several of the union crafts believe that a substantial amount of federal and/or state dollars was provided for the operation and training of railroad employees now working for Mr. Green in Butte, Montana.

I would appreciate it if you would provide me with the actual dollar amount, if any, and its use in order that I may share this information with those individuals requesting it.

I would also like to take this opportunity to thank you for assisting my Casework Director, Kathy Meadors, in obtaining up-to-date information on the proposed sale. Your input was very helpful.

Please direct any correspondence concerning this inquiry to my district office located at the following address:

312 9th Street South
Great Falls, Montana 59405
Attention: Caseworker/Mrs. Meadors.

Sincerely,

Ron Marlenee

km/aw

SENATE LABOR & EMPLOYMENT

EXHIBIT NO.

DATE _____

BILL NO

COUNTIES

BIG HORN BLAINE CARBON CANTER CASCADE CHOUTEAU CUSTER DANIELS DAWSON FALLOU FERGUS GARFIELD GOLDEN VALLEY HILL JUDITH BAS
LIBERTY MCGINN MCGOUGH MURKIN NEVILL PETROLEUM PHILLIPS PONDURA POWERS RIVER PRINCE RICHARD RUSSELL RUSSELL
SHERMAN SINKWAIR SWEETWATER TERRY TOLLE TRAVLER VALLEY WATKINS WILSON YOUNG YOUNG

Congress of the United States
House of Representatives
Washington, DC 20515

February 11, 1987

Judith Bell
District Director
Railroad Retirement Board
P.O. Box 1351
Billings, Montana 59101

Dear Ms. Bell:

At the recent union meeting held in Great Falls on January 25th at which Mr. Kamenski from your office participated, I was asked if federal funds were provided for job training of any employees on the short lines now operating in Montana.

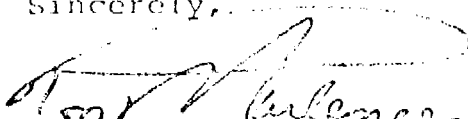
I wrote to the State Department of Transportation to obtain the information and I now enclose for your information and review, a copy of that response. Needless to say, Judy, I am very dismayed to learn that the State Job Service reportedly solicited Montana Western's participation in a Federal/state job training program that would train three employees in railroading. I find this very hard to understand inasmuch as your agency has access to the names of those who have been furloughed or unemployed who are experienced railroaders. To expend over \$12,000 in training of this sort is inexcusable.

I am wondering if the Job Service is required to contact your agency and to coordinate or seek information about furloughed railroad employees. I cannot imagine that the Job Service is not aware that your agency is a valuable source.

I would appreciate any information you can provide about this particular process. Please direct any correspondence concerning this inquiry to my district office located at the following address:

312 9th Street South
Great Falls, Montana 59405
Attention: Caseworker/Mrs. Meadors.

Sincerely,


Ron Marlence

SENATE LABOR & HUMAN RESOURCES
EXHIBIT NO. 10
DATE 3/24/87
BILL NO. 413 382

km/aw

COUNTIES

BIG HORN BLAINE CARBON CARTER CASCADE CHouteau CUSTER DANIELS DAWSON FALCON FERGUS GARFIELD GREEN VALLEY HILL JUDITH RIVER
LIBERTY McCONE MEADER MUSKIE SHELL PETROLEUM PHILLIPS PRAIRIE POWELL RIVER POWELL RIVER PRABH RICHARDSON RIVER
SHERIDAN SHELBY SWEET GRASS TETON TONGUE TREASURE VALLEY WATKINS WILSON YELLOWSTONE

Forbes Magazine (possibly the most prominent business publication in the U.S.) in its June 30, 1986 issue, printed a major analysis of the rail industry. The article -- interestingly enough entitled "Here Come the Truckbusters" -- paints an entirely different picture right from its opening paragraphs.

"When World War II ended, 1.4 million people manned U.S. railroads. This year that same industry will carry 35% more tonnage than it did four decades ago, but with only 300,000 workers... one worker today does the work it once took six to do."

"Because of this almost incredible explosion of productivity", FORBES continues, "the railroads, an industry that predates even the smokestack era, have not only survived but

I

flourished. Whereas the Dow Jones Industrial average increased some 80% over the past decade, Standard & Poor's Index of railroad stocks has increased some 200%. Instead of dying, the railroads have shown astounding vigor."

So in the opinion of FORBES, railroads, far from presenting a dismal recent past and pessimistic future, reflect high profitability and attractiveness to investors that far out paces the stockmarket as a whole.

And to what do they attribute this outstanding success? The "almost incredible" productivity of its workforce. Or as they explain further in the article, "Sheer productivity has made the difference".

But it can be argued this is all opinion. What do the actual figures

show? And what do the actual numbers show specifically with respect to BN?

The actual figures give the lie to BN's entire video.

FORBES yearly puts out a special issue in which it compiles extensive statistical data on the top U.S. corporations and compares their

profits have increased significantly from \$113.5 million in 1978 to \$551.3 million in 1984. In profits during 1985, BN was rated 34th of the top 500 largest companies. That's up from 41st the previous year.

In sales BN ranked 65th. BN's assets rank them 98th of the top 500 companies. And in comparison with

other railroads BN is first in all three categories.

On the all important productivity figure of profits per employee, FORBES compares not the top 500 companies but the top 798. BN was 235th or just about in the top 25%. In profits per employee this placed them ahead of all other railroads and all major trucking firms.

The actual profit per employee figure for BN was \$14,621.00. That's right -- you and every one of your fellow union members are each producing well over \$14,000 a year in profits for BN.

In light of recent remarks by BN President Gaskins claiming rail workers are grossly over paid compared to the trucking industry and asserting engineers should be paid no more than truck drivers, it's interesting to look how BN's figures compare with the four largest U.S. trucking firms.

<u>Profits Per Employee</u>	
Consolid. Freight Ways	\$3,700
Roadway Services	\$3,600
Yellow Freight Systems	\$2,682
Leaseway Transportation	\$3,280
Burlington Northern	\$14,621

We're told how the trucking industry is stealing the railroads blind of business. Yet according to U.S. Department of Commerce figures, the ratio of rail business to trucking has remained virtually unchanged since the early 1970's. Since then the rail share has fluctuated between 36-38% of all intercity freight and for 1985, the last year figures were available, it was 38%.

In fact the whole point of the FORBES article is railroads are no longer the innocent victims of the trucking industry, but the future

The video's most strident persistent claim is that re investment for investors is to continue to attract an necessary capital for the re Again, what are the facts?

In its June 9, 1986 issue magazine published the key fi earning figures for the 50 transportation companies in t

Under the category "Total to Investors", over the 12 years (1975-85) BN has aver return of 27.57%. This was th highest of all 50 transpo companies including rail trucking firms, barge pipelines and airlines. It highest return for any railro

It's true that BN has capital expenditures for upcoming year, and the rea gives for this action is too rate of return. But is that th reason?

John Rutledge is one economists BN relied on heav its seminar and he is quoted video brochure. (By the it's interesting to note Jus Rutledge is. He's a 37 year Reaganite economist who ser Reagan's transition team in 1 and then in the administration Reagan's rabidly anti-union Tr Secretary, William Simon.)

*Do you know of
other business in Me
that gets this
kind of produ*

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 10

DATE 3/24/87

BILL NO. HR 282

EXECUTIVE COMPENSATION

The following information is furnished for the year 1986 with respect to each of the five most highly compensated Executive Officers of the Company and its subsidiaries whose direct remuneration exceeded \$60,000, and all Executive Officers as a group:

<u>Name of Individual or Number of Persons in Group</u>	<u>Principal Capacities in Which Served</u>	<u>Cash Compensation</u>	
		<u>Salaries Including Deferred Amounts Accrued (1)</u>	<u>Incentive Compensation and Bonuses Including Deferred Amounts Accrued (2)</u>
R. M. Bressler(3)	Chairman of the Board, President and Chief Executive Officer, Burlington Northern Inc.	\$ 600,000	\$ 300,000
W. A. Drexel(4)	Vice Chairman of the Board, Burlington Northern Inc.	\$ 375,000	\$ 187,500
T. H. O'Leary(5)	Vice Chairman of the Board, Burlington Northern Inc.	\$ 400,000	\$ 200,000
T. H. Petty(6)	Vice Chairman of the Board, Burlington Northern Inc.	\$ 400,000	\$ 200,000
R. S. Morris, Jr.	President and Chief Executive Officer, El Paso Natural Gas Company	\$ 275,000	\$ 275,000
14 Executive Officers as a Group(7)		\$3,721,606	\$2,220,000

SENATE LABOR & EMPLOYMENT
 EXHIBIT NO. 10
 DATE 3/24/87
 BILL NO. HB 302

RESOLUTION 26

WHEREAS, Montana statute requires railroads to maintain and staff station facilities in communities of one thousand (1,000) or more population, and at least one in each county where the railroad operates; and

WHEREAS, it is very likely that an attempt will be made in the 1987 Montana legislature to repeal or amend said statute; and

WHEREAS, this statute insures that service to these communities will be maintained and the continuation of branch lines, which in turn is beneficial to the economy of the state; and

WHEREAS, a staffed station in said communities will generate more business for the railroad, which in turn will mean more revenue and will insure the future of rail transportation in this state;

THEREFORE BE IT RESOLVED, that this convention will adopt a position supporting said statute and will oppose any attempt to amend or repeal this statute during the 1987 Montana legislature.

SUBMITTED BY BRAC LODGE 43, AFL-CIO
CONVENTION VOTED CONCURRENCE

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 10
DATE 3/24/87
BILL NO. 1473 302

NAME: RICK LILFKEN DATE 3/24 DATE: 3-24-87
BILL NO. _____

ADDRESS: 102 CUE CT, MISSOULA, MT.

PHONE: 251-4421

REPRESENTING WHOM? ERG. RAILWAY & AIRLINE CLERKS LODGE #42

APPEARING ON WHICH PROPOSAL: HB 302

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: WOULD LIKE TO FOCUS ON ONE PARTICULAR
ASPECT OF THIS PROPOSAL, I.E. SO-CALLED ADVAN-
TAGES OF TELECOMMUNICATIONS / TELE-MARKETING
OF CENTRALIZED AGENCIES, SO HIGHLY TOUTED BY PROPONENT.
1.) INTERNALLY, WE HAVE HEARD SUGGESTIONS THAT,
IN FACT, THE COMPANY INTENDS TO CENTRALIZE
MUCH FURTHER THAN 5 AGENCIES IN MONTANA-- TO
AS FEW AS 3 OR 2, AND PERHAPS ENTIRELY OUT
OF THE STATE TO REGIONAL AGENCIES (DENVER, HOUSTON) ?
2.) HOW WELL DOES ~~THE~~ CENTRALIZED AGENCY SYSTEM
ACTUALLY WORK? CONSIDER THE NEEDS OF THE
SMALLEST LUMBER SHIPPER, I.E. ONE OR TWO CARS
PER WEEK. SUCH SHIPPERS DON'T HAVE THE ADVAN-
TAGES OF LARGE, OR EVEN MODERATE VOLUME GRAIN SHIPPERS
AND CEMENT
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.
USING HIGHLY STANDARDIZED CARS. SOME BOX CARS
ARE 50', OTHERS ARE 52' - HI-CAP LO-CAP, SINGLE-DOOR
DOUBLE-DOOR, ETC. * SMALL SHIPPERS DON'T HAVE THE
ADVANTAGE OF ASSIGNED POOLS OF CARS, DON'T HAVE
THE ADVANTAGE OF INSTANT RESPECT FROM A DISTANT



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 302 BEFORE THE SENATE LABOR AND EMPLOYMENT
RELATIONS COMMITTEE, MARCH 24, 1987

Good afternoon. For the record, my name is Jim Murry and I am here today to testify before the Senate Labor and Employment Relations Committee on behalf of the Montana State AFL-CIO in opposition to House Bill 302.

The delegates to the 30th Annual Convention of the Montana State AFL-CIO adopted, through Resolution 26, a position that our labor federation oppose any attempts to amend or repeal Montana's so-called "freight agent" law. This statute requires railroads to maintain and staff at least one freight station facility in each county which the line passes through and any point on the line where there are at least 1,000 people.

House Bill 302 would amend this law by allowing the Public Service Commission to authorize closure of such facilities in the event any person, corporation or association demonstrates that a facility is not required for public convenience and necessity.

Mr. Chairman, it is our contention that public convenience and necessity are being served through our current statute which insures that service to these communities will be maintained. We believe that the existing law not only benefits the communities where these facilities are located but also helps generate more business and revenue for the railroad.

In our difficult economic times, many smaller cities and towns are fighting for their very survival. The presence of rail stations and branch lines may mean the difference between economic solvency or another boarded-up ghost town. Access to transportation is vital for the future economic growth of Montana's small cities and towns and therefore we oppose House Bill 302, which would only further isolate rural communities.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 12

DATE 3/24/87

BILL NO. 10 302

Bruce Graham
617 N. 8th St.
Livingston, Mt. 59047

March 24, 1987

Legislative Body of the State of Montana
Capital Building
Helena, Montana 59601

Dear Legislative Members:

Please accept this as my testimony in opposition to HB302. Don't believe the BN that the people working the Agencies will be protected by Union Agreements. Due to the closing of the Livingston Shops I was forced by Burlington Northern on June 13, 1986 to separate from the Company along with six other employees.

The protective agreement dated May 6, 1980 is just another contract for the Burlington Northern to break. This affects everyone who was hired since March of 1970, people with seventeen years seniority.

The Burlington Northern wanted me to move out of state. I wanted to stay in Montana so now I am competing in business with other Montanans for a declining share of the Economic pie. In reality, I am not adding anything to the economy of Montana. All I am doing is taking income away from my competition.

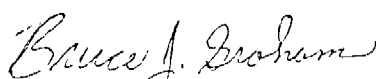
The Burlington Northern's only goal is to maximize profits and the fastest and easiest way is to get rid of the employees.

As of December 1980 there were 143 Clerks, BRAC protected, in the Livingston-Bozeman area. Today there are 31, one of whom the Burlington Northern claims does not exist, twenty-one of these Clerks moved, 3 stayed in Montana, and the others-to protect themselves-had to move out of State. It would be interesting for you to ask Burlington Northern what happened to the other 91.

We need to keep jobs and people in Montana, Burlington Northern does not agree.

I urge you to vote against HB302.

Sincerely,


Bruce Graham

Jeanne M. Oines
P.O. Box 170
Livingston, Mt. 59047

March 24, 1987

Legislative Body of the State of Montana
Capital Building
Helena, Montana 59601

Dear Legislative Members:

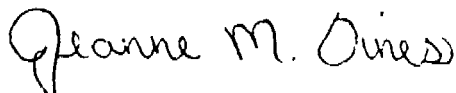
I would like to respond, in opposition, to HB302. The Burlington Northern is claiming that closing the Agencies in the State of Montana will not affect any clerks' employment as they all have job protection provided through their BRAC Union Agreement. The Company claims that since all the agents are protected they would have other BN jobs to go to.

I, too, was a "protected" clerk working for Burlington Northern Railroad with the same protective agreement which these agents have. However, when BN chose to close the Livingston Mechanical Shops they not only severed all mechanical shop employees but also several clerks. When the Shops were closed I was working in the BN Yard Office which is a completely separate department. My job had nothing to do with the work that was eliminated or transferred. The Company indicated that they had a certain "quote" of clerks that they needed to get rid of in Livingston. Therefore, my employment with Burlington Northern, along with several others, was terminated.

The Burlington Northern now has decided that they can do fine in the State of Montana with fewer agents and agencies. There is no assurance that this company will not do to these people exactly as they did to us just last year. They may also try to force these people to transfer out of state as they have in the past with many BN employees. There certainly is no "protection" provided that will insure these agents continued employment with the Burlington Northern.

I urge you to strongly oppose HB302.

Sincerely,


Jeanne M. Oines

417 So. 5th St.
Livingston, MT 59047

March 13, 1987

TO: The Legislative Body of the State of Montana.

The following is testimony concerning the protection of Burlington Northern employees effected by agency closings and the sale of the Burlington Northern Southern Route through Montana.

I was employed by B.N. for 10-1/2 years: one year as a Laborer on a steel gang and 9-1/2 years as a Clerk at the Livingston Diesel Locomotive Shops. In 1980 I became a protected employee because of the B.N. merger with the Frisco. To come under this protection, an employee had to have at least 4 years of service with the carrier at the time of the merger.

Because of this merger I was to be guaranteed my wages in the case of a shop closure until the age of retirement or until I chose to quit my job, according to the BRAC agreement with the carrier. If I refused to transfer to a different location, I would forfeit my guarantee for a period of 6 months. After this 6-month period, I would be able to collect my guarantee.

When the Livingston Shops closed, I was told to bid on jobs in Iowa, Nebraska, or Illinois, which were not in my seniority district. I was informed that if I bid on jobs in my seniority district, the B.N. would veto my bid and I would not be allowed the moving benefits to the locations in which I had seniority rights.

When I did not bid on jobs at any location, I received a letter stating that I had two choices: (1) To lose my guaranteed protection in Livingston, my home zone, until I could hold a permanent position at the yard office (which would probably never happen), or (2) Take severance pay and relinquish all my seniority rights, as well as my job with the carrier.

Other locations on the system were offered 60% of their wages for life in Reserve Clerk status. I was not offered this option, and was forced to take the severance pay.

I sincerely hope the Legislature will take this incident into consideration when making their decisions on the matters of agency closings and the sale of the Southern Burlington Northern Route.

Truly Unemployed,

Kester C. Romans

Kester C. Romans

Chairman, Committee Members:

I am Betty Klingler, representing Halfway Lodge 402 of BRAC

I am against this bill (HB 302) because after twelve (12) years of working for Burlington Northern I am no longer employed. The reason I am no longer employed is because Burlington Northern tried to move me out of state to West Burlington, Iowa; I refused to go and thus was told to separate from BN or go home with no pay at all.

I was a protected employee and was suppose to have a life-time guarantee just like all the agents that they (BN) are telling you are protected.

I believe BN will try similar tactics on the agents who lose their jobs, if they don't leave the state they will have no job or protection.

BN maintains that shippers' rates would be lowered if they (BN) could do away with unproductive agencies. Did the shippers' rates get lowered when they got rid of myself and the thirty (30) other clerks at Livingston? NO!!

Many people have left our state because of BN. Do we want to lose even more?

I ask that you consider these facts and vote NO.

Thank you.

Betty I. Klingler
Betty I. Klingler
March 24, 1987

Mr. Chairman, and members of the Committee,

IF this legislature eliminates the Prevailing Wage rates in Montana, when it meets again it will face another revenue shortage, this one of its own making.

With no prevailing wage rate law, our State will be flooded with non-resident, non-union, non-income or property tax paying workers!

In addition the revenues collected from Montana workers will drop or even disappear, forcing these former taxpayers out of the State or onto Public Assistance; both unacceptable options!

The prevailing wage rate law insures that working people in Montana will receive a fair wage and won't be pushed into the growing class of Americans known as "the working poor." Construction salaries may seem excessive, ~~until you~~ but the work is seasonal and if the salaries were averaged out over a fifty week work year they would hardly be excessive! We are proud to be members of the Working Class, who have always paid our fair share. Help us keep it that way!

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 26, 1987

The twenty-second meeting of the Labor and Employment Relations Committee was called to order by Vice Chairman Thayer on March 26, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

FURTHER CONSIDERATION OF HOUSE BILL NO. 302: Senator Manning submitted amendments for House Bill 302. Mr. Leo Barry representing Burlington Northern Railroad, has no objections with the amendments.

Mr. Jim Mular representing the Brotherhood of Railway & Airline Clerks, has no objections with the amendments.

Senator Blaylock asked Mr. Mular to explain the amendments. Mr. Mular stated it proposes the criteria of maintaining stations on short line purchases. There are 21 agencies and the purchaser would be a successor to the framework of the law on this bill. Senator Blaylock asked Mr. Mular if the southern railway route will remain the same as the Burlington Northern system. Mr. Mular replied yes, it would also be subjected to a hearing process.

DISPOSITION OF HOUSE BILL NO. 302: Senator Manning made a motion that the amendments be adopted. The motion carried unanimously. Senator Blaylock made a motion that House Bill 302 AND AS AMENDED, BE CONCURRED IN. The motion CARRIED 5-3. See attached roll call vote sheet.

FURTHER DISCUSSION OF HOUSE BILL NO. 381: Senator Blaylock stated the salon owners who are running their place of business and paying Workers' Compensation and unemployment compensation have a point with the fact they are responsible for these payments and that they only own the building. Senator Blaylock does not feel the booth renters are independent from the person they rent from.